



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, June 13, 2016 - 7:00 PM

City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

2. APPROVAL OF MINUTES

2.A. Approval of the May 9, 2016, Planning Commission work session and regular session meeting minutes.

[Draft 5-9-16 PC Work Session Minutes.pdf](#)

[Draft 5-9-16 PC Regular Mtg Minutes.pdf](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

5. PUBLIC HEARINGS

- 5.A. File No. 1-UGB-16/1-CP-16.** A request for a minor amendment to the Newport Urban Growth Boundary submitted by Terry Lettenmaier & Laurie Weitkamp on behalf of themselves and Fox N Bush, LLC, the other property owner to accommodate a property line adjustment that will add and remove 6 acres of land. The land within the UGB is part of the Wolf Tree Destination Resort Planned Development. Property outside the UGB is designated for forest uses. The proposal would also include an amendment to the Newport Comprehensive Plan map designating the property being added to the UGB as "High Density Residential" with the limitation that it can only be developed in an urban manner as part of the destination resort.

[File 1-UGB-16--1-CP-16 Staff Rpt w Attachments.pdf](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Conference Room A
May 9, 2016
6:00 p.m.

Planning Commissioners Present: Jim Patrick, Lee Hardy, Rod Croteau, Bill Branigan, Bob Berman, and Jim Hanselman.

Planning Commissioners Absent: Mike Franklin (*excused*).

PC Citizens Advisory Committee Members Absent: Dustin Capri (*excused*).

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

1. **Call to Order.** Chair Patrick called the Planning Commission work session to order at 6:02 p.m. Newly-appointed Planning Commissioner Jim Hanselman introduced himself. He explained that he bought property here in 1990 and moved here in 2006 to retire. He said he was always engaged with planning in one way or another; and it's something he enjoys.

2. **Unfinished Business.** No unfinished business to discuss.

3. **New Business.**

A. **Interview applicants for the Planning Commission's Citizen Advisory Committee vacancies.** Robert Heida explained that he originally came here in 1978. He joined the Coast Guard and got married here, and then moved away. They came back here and bought a house in 1983 when he got out of the Coast Guard. They then moved to California in 2000 when he was an electrician, and spent fifteen years there. They came back and are getting involved in Newport again.

Karmen Vanderbeck explained that she has worked in the banking business for 37 years. Her family came out here to visit her in-laws who have lived here since 1984. In 2005, they moved here from Montana. She said that she likes to do things in the community to assist. She's a recent leadership Lincoln graduate. She serves on a couple of boards. She served as the secretary for the Coast Guard Auxiliary for five years. She was on the Lighthouse Board for three years as secretary and vice president. She's served on special committees and event committees. She noted that working in banking, you get familiar with everybody in town and most of the time get aware of their needs as well as topics that are important to them. She said she's also planning and resolving things at the bank every day. She's never served on a planning committee; but she thinks it's an interesting committee to learn about.

Patrick explained that the Planning Commission committee started as an advisory committee about nine years ago because they wanted to re-write the code. The Commission formed the citizen advisory committee to get more input. It broadens the Commission's base a little more. He said it's also served as the Commission's farm team. He noted that probably half of the Commissioners have come up through the advisory committee. Then new members are not coming in blind. Most have sat through a lot of discussions and know what is on the table. Patrick said he thinks it's a valuable way of doing things. He said it's nice to bring issues to the work sessions and get the different perspectives on things. He finds it a useful process. Hardy noted that it also makes it possible for the members to populate other committees.

Croteau asked the applicants what they see as issues that could be addressed by the Planning Commission, or should be, based on their experience in the community. Vanderbeck said that she sees several issues going back to 1984 or 1985 and coming forward. She said there was tourism, but we were much more of a fishing community then. There are issues with tourism and space. Wise decisions have to be made on things like room tax and vacation rentals. She noted that the homeless population is much greater than it was. She sees it in the last few years getting huge. She hears ideas about different ways to work on those. Heida said he sees issues going on right now with the swimming pool; the situation with parking and stabilization of the ground. He sees an issue in the future with the reservoir and how things happen out there. He said over the years you hear about everything and say why didn't somebody say something. He has been at a couple of the meetings; and one of the Commissioners said that's why you have the citizen advisory board and noted that there are openings on them. Heida said that's why he's here.

Croteau asked what the candidates bring from their backgrounds that would help in decision making. Heida said that he's done a lot of things. He has run his own work. For the last twenty-five years he has worked in construction. He had a solid business. He's been in the Coast Guard; and he ran his own station on the east coast. He's just always been interested in small towns. He's lived here off and on for thirty years, and he doesn't really see living anywhere else other than some place like this. So he wants to make it as good as possible for himself and everyone else; at least what he sees as good. Vanderbeck said that she's the assistant manager at the bank, and in that capacity she's making decisions every day for people and staff. Sometimes they are

security issues, but there are several different issues. She thinks it's also important to give back to the community by doing things like serving on committees if you get a chance. She said you want people to brainstorm to come up with a great option. She said the worst thing you could do is not give an opinion if you have a valid one. You listen and learn about what you are studying. She likes to listen to what all the material is and give an opinion and get feedback from everyone else. Through that exercise, you will come to a consensus that is best. She likes that process and is used to it.

Branigan asked the applicants what they saw as the biggest hurdle facing Newport in the next twenty years. Vanderbeck said that she's very concerned about the homeless. That needs to be dealt with in a good way. There does have to be some kind of kickback from them and also us trying to assist them. They also need to be valuable members in the community. Another issue she sees is emergency status; we need to make sure we're on top of that. She's also concerned about the hospital and what we voted to do with the hospital. Heida said that one thing he's noticed being gone for a while is that it didn't seem to change a whole lot. Newport didn't seem to grow much. He said he didn't know if he didn't notice before, but when they came back he saw a graying of the entire community. It seems we need to do something about that. He thinks we need to get Newport growing. There has to be something to attract people to Newport. He likes it here, but not everybody likes the same thing. He tells people if they don't have a job, not to come here. Vanderbeck said that from her point of view, she sees a tremendous shortage of housing. It's not reasonable that 2/3 of Newport workers must live in outlying areas. There are tourism-service people that don't always have income year-round. She knows what Heida is saying about things looking the same after being gone. She thinks there are differences in the growth and there are things that we can take on to promote the community and make it viable. As a community we have to deal with Hatfield's additional college students and teachers. Things like that will be challenging.

Patrick asked for their thoughts on consensus decision making, which is most of the time what the Commission tries to do. Heida said it always seems like the bottom line is to have as many on board a project as possible. At the same time, there's always somebody with opposing opinions. The ultimate goal is to try to fold all opinions into one goal or decision that everybody can support. Vanderbeck agrees with that. She said it's extremely important. Most effective communities will operate that way. Not that you won't have your own opinion; but in consensus you might not get exactly what you want. If you are expressing your opinion and everyone else does the same, you have a very good chance of coming to consensus. She said that's extremely important for communities and on boards.

On a side note, Croteau asked what Heida and Vanderbeck did in their spare time. Vanderbeck said she has served on almost any special event in the community. She served on two boards. She stepped back this last year because her manager was Rotary president and would be out of the office a lot. She said she's always looking for something to do. She enjoys her family. They like to do radius reviewing of Oregon. Having been here almost eleven years, there are still many areas they don't know. She likes to go to the beach. She said she's pretty busy. She jokingly said she directs her husband. Heida jokingly said that he does what his wife tells him. He said when they moved back, they had a problem with leaking in the basement. He started repairing that, which lead to another thing, and on and on. Now he's almost getting to remodeling the basement. Hopefully, they will be able to rent it out and not worry about traveling. He said he and his wife both volunteer in town with football and the animal shelter. They just finished the CERT training class. He started fly fishing again. He went to the beach just this morning because it was an extremely low tide.

Providing some more information on the advisory committee, Tokos noted that that committee is involved in the Planning Commission work sessions strictly on legislative matters that could become new city ordinances in regular sessions. The work sessions are from 6:00 to 7:00 p.m. The 7:00 p.m. regular session is where formal action will be taken by the Commission on these matters as opposed to the work session discussions where they get developed. Quasi-judicial matters don't come to work sessions. Those processes require formal public hearings. Listing some of the projects that are coming up, Tokos noted that the community visioning process should be firing up in the fall. A parking study is ongoing right now. We'll be looking at re-tooling the System Development Charges and looking at construction excise tax for affordable housing in conjunction and the interplay between those. The construction excise tax is something that just came out of the Legislature. We would have to give that back as SDC credits or incentives. It's more a shifting of what those fees are collected for. Right now, SDCs are for future infrastructure needs. If we go with a construction excise tax, some of the funds otherwise going to infrastructure will get shifted to affordable housing. It's likely we'll look at a multiple unit property tax exemption. We'll likely pick up annexation in the fall because there are a number of unincorporated parcels in South Beach surrounded by the City, which causes an issue for police and fire. There's a desire by the City Council to potentially compel those properties to annex; but there are some challenges with respect to that. Down the road in the next couple of years, we'll kick off workshops in Agate Beach to figure out infrastructure needs now that there's a new Urban Renewal District in place. Agate Beach is an area that is under-served with respect to public services like infrastructure. There are some street extensions that could be a part of that; and we need to deal with slope instabilities. We'll learn a lot about the storm water and sewage facility plan as part of the discussion. There probably will be some zoning issues; especially in South Beach as we get close to winding down the South Beach Urban Renewal District. There's the hospital expansion and the Hatfield campus expansion. Housing and how we can incentivize that is an issue we're talking about. Patrick said that on the housing issue, there's also the Hatfield Marine Science Center campus expansion for the 500 students and instructors. Tokos said they will be constructing 150 housing units; but that's not enough to deal with it, especially for the professors.

Berman noted that there was a third applicant. It was explained that that was Marvin Straus, who was not able to attend tonight because he is out of town; but several of the Commissioners are familiar with Mr. Straus.

B. Status of vacation rental code modification discussion. Tokos explained that this is more for information sharing than anything else. He wanted to make sure that the Planning Commission saw what the City Council did. Also, it's been a while since the Commission talked about vacation rentals and how the code is working. The Commission spent a lot of time re-tooling the code in 2011-12. In the packet, Tokos included a memo that he gave to the City Council. He said that the catalyst was Councilor Engler who expressed concerns about the impact that vacation rentals are having in the Nye Beach area. She expressed a desire that the City Council put a moratorium in place. The Council first asked for a report from staff, weighed the options, and elected that a moratorium was not appropriate, and the best action was to monitor the growth of vacation rentals in the community. Tokos noted that prior to 2012, the City didn't effectively regulate vacation rentals. If they weren't offering the unit more than ten times a year, they didn't have to even talk to the City. Those wanting to do bed and breakfasts or vacation rentals on a more frequent basis were required to get conditional use permits. At the time the Commission picked this up, there was discussion that we were starting to see more and we don't have a handle on them. Are they paying room tax? Are they as safe as hotel rooms? The criteria didn't make any sense. Every one of them had their own conditions. There were a number of reasons it was felt that this code needed re-tooling. An ad hoc group was put together to look at that. We had a good cross-section at the table. They looked at codes from a variety of locations up and down the coast in Oregon to see how they were handling vacation rentals. They looked at Sisters and out of state, like Durango, Colorado. All were areas where they were dealing with the demand for vacation rentals and bed and breakfasts and how they regulate and strike the right balance. The Commission elected to put in place rules that were designed to make sure vacation rentals were operating in a manner that was safe as hotel rooms, and when they're in residential areas they weren't ripping out the front yard landscaping to park cars. Rules were put in for parking and trash and management provisions. Complaints would be handled through the contacts or the management company before coming to the City. It's not the City's role to babysit those issues, but step in when the first line of contact is nonresponsive. The contact maintains a complaint log. Vacation rentals have to display emergency information like tsunami evacuation routes. An inspection by our Building Official was a big piece of that program to make sure that the structure is sound, that there's adequate fire egress, GFCI outlets are installed, smoke detectors are working, and carbon monoxide detectors are installed in order to afford the same quality of safety as a hotel. There wasn't an effort to restrict them. There is a limit of size; no more than five bedrooms. Over five bedrooms would shift them into the category of a hotel or motel, and they would be allowed only where hotels and motels can go. There's a close relationship to State codes there. They would be under the commercial building code, and egress rules change. Since that time, it took a couple of years to get ramped up and get everybody in the system. We have 149 active vacation rentals. The map provided showed how that ramp-up occurred. One of the reasons the Council felt it should just be monitored was that there was no expedient growth; it's been leveling off. It's a piece of the seasonal housing issue. Tokos said, looking at the census data for Newport, about 14% are seasonal homes. Just 149 are vacation rentals or bed and breakfasts; the balance are strictly second homes. Berman wondered how seasonal is determined. Tokos said he believes they finish a census bureau questionnaire annually. Every 10 years they roll out the survey. Tokos said we are dealing with a small percentage. This is the only data we have. They send out a fairly thorough survey, and responses determine the data. People with second homes would get a survey for their unit here. They would be checking a box that it's a seasonal home. It's only a snapshot; but it's a small percentage. Patrick noted that on their 10-year cycle the census bureau conducts bigger interviews; otherwise it's just updates by mail, and a person doesn't physically check. Tokos said there are probably a few other things that they do to get their entire data. He said, looking at other communities to see where they're at, Lincoln City is at 28%, Cannon Beach is over 50%, and Manzanita is at 80%. Heida wondered if there's data on how many are just investments as opposed to being used by the owner; and Tokos said not really. Hardy wondered why you couldn't look at the water billing data; that could possibly distill it down by indicating out-of-town owners. Tokos said an investment property could be made available through vacation rental to get some money back, or they could rent it long-term. It may be that they're renting just to hold on until five years when they retire. He doesn't know how you'd ferret that out.

Hanselman asked about a home that rents out rooms. Tokos said short-term rentals like Airbnb would be vacation rentals; they are treated the same under the code. If they are rented short-term transient under 30 days, whether they do a room or the whole house, it's considered a vacation rental under the code. Patrick said we may or may not be picking them up. Hanselman said if you go to VRBO for the zip code 97365, there are 151 offered. Tokos said with VRBO it's based on the geographic area display in a box. If 150 shows, it could be picking up some in Beverly Beach or south of the city limits. If you tailor it strictly to Newport city limits, 120 to 125 show up. Hanselman noted that on Craig's List, there's no information about where they're located; you can't identify where they are. Tokos noted that when the Planning Commission and the City Council re-tooled the code, they added a provision that if you're advertising, you're using. He said the City does an annual audit and goes through VRBO and Airbnb; and if they're offering and they don't have a business license endorsement, we will contact them. More often than not, it's just innocent; they didn't know, and they will follow through. We had the experience where some that applied found it too costly to make structural changes so they didn't do the rental. We have picked up quite a bit of structural issues as part of this. We've had some where once the housing market got better, they took it out of the rental market and sold the unit. We had some testimony from Vacasa that most folks that have vacation rental properties are owning them as second homes. They want to use it themselves occasionally so it's more attractive than a month-to-month rental. Hardy said vacation rentals allow them to be able to own the home and pay the property taxes. Tokos said the map shows the geographic areas where vacation rentals are located. It shows that the majority are where there are ocean views, access to the beach, and services. The 1,050 is the total

overnight occupancy; the total number of bedrooms available across everything. If it were a 5-bedroom house, they would be able to have 12 because the code is total overnight occupancy of two per bedroom plus two. With 149 vacation rentals, if all were operating at capacity, you could have 1,050 people staying in vacation rentals and bed and breakfasts overnight. Patrick thought that hotels were about 3,000; and Tokos said something like that. Tokos said obviously, you're never at that number; it's always something below. Patrick asked if we know how much of these things are getting rented; the occupancy rates, and how much revenue is coming in. Tokos said the Finance Department is working on that. They've got a number; but he's not confident on it. Part of it is how room taxes are collected; they could be under a separate liability company or a company like Vacasa collects the taxes and pays. There are 114 registered with Finance, where we have 149 in our department. One entity is making multiple payments. Tokos said the Finance folks are trying to get that information. We have to have confidence in the numbers before we throw them out there. Hardy said that nightly rents vary throughout the year. One she saw went from \$105 to \$340 in the summer. Patrick asked if they don't collect the nightly number of guests. Berman said they have to collect it, but they don't have to show it to anybody but the police department. Tokos said the Council thought it wasn't likely they could justify a moratorium. Usually under State law it's reserved for things like when your water treatment capacity or sewer capacity is exceeded. There are very strict rules we have to follow in the event we do impose a moratorium. The Council felt it wasn't appropriate at this time. With 14% and not seeing an expedient climb in VRDs and B&Bs, it's not appropriate to do anything but monitor them.

Hanselman wondered if there's data on the relationship of the number of VRDs and the cost of homes. Tokos said that most units offered as VRDs would not be affordable to workforce. They're usually units with very good ocean views; the higher-end homes in Newport. An example that Engler brought in was a developer looking at a property at Coast and Olive, which is between \$500,000 and \$600,000. The issue isn't the 13.8% vacation rental rate; that's a small slice. It has more to do with the fact that the larger piece is just the number of second homes. That has an impact on prices; and we're having a hard time expanding our inventory. When we're growing at a small rate with nothing on multi-family in several years and people start to do second homes, that puts a squeeze on it. Hanselman thought that a vacation rental makes it possible for someone to buy a higher-priced home. They can do a vacation rental to recoup some of the cost. Hardy said not if they're getting a bank loan. Hardy said a rental typically subsidizes a portion of the property owner's cost; but sometimes not that much. Other times, it's all over the chart. Hanselman said from his perspective, a smaller house that could be turned into a vacation rental comes up for sale, they might get a higher price because they can find someone that wants to do a vacation rental. Patrick said there are some of those out there. The majority though is because in five to ten years they want to retire here. In the meantime, because they want to come here too and be able to vacation here, they put it up as a vacation rental. He said that's a bad investment; there's no profit in it. They're just trying to cover some of the costs. Some are just happy to get the property taxes out of it. This is convenience on the owner's part. They're not pushing to get the rent up that much. They want to come here whenever they want. Vanderbeck said the upkeep on a vacation rental is high. Hardy agreed, more so than for a long-term rental.

Croteau asked, with regards to the moratorium issue, how are we actually doing with the VRD ordinance; is it working? He said the other thing is that it gets back to workforce housing. Tokos thought that the City Council didn't want to dive into something like the Lincoln City moratorium. Tokos said that Newport's code has been held up as a model. We have had three units where the City had to step in since 2012. He's sure there was a larger number. Vacasa said that they get called, and they try to deal with it. Croteau said that one thing that would help is to expand the zone of notification to more than 200 feet. He said noise travels, and if you have no one to contact other than the police, that's what you do. Tokos said we can possibly look at those things. He said the police department says they haven't had any issues. Hardy said they are obligated to enforce the noise ordinance. Tokos said the planning department would get notified too; and there have been no issues there.

Hanselman said, regarding Vacasa, there's a home in his neighborhood that became a vacation rental. They used to have a path through other people's property. Vacasa said to go ahead and use those paths; but the private property owner was not willing to let that continue. This is one case where he thinks the system broke down. The neighbors attempted to call the police, but the police said they couldn't act on it because they were not the property owner. So they called Vacasa, and they said the same thing. Hanselman said the problem here is that this is an assault on the whole concept of neighborhood. The neighbors can't call because the police and Vacasa won't respond because the neighbors are not the owner. Hardy thought there would be a way to do it. She said file a complaint with the City, which is above the police. Do a neighborhood watch; formally organize. Berman said you don't have to be the owner. We have the code enforcement officer that you can contact directly. If they're in violation of the ordinance, Berman believes that Jim Folmar is obligated to investigate it and report it. So, there is somebody within the City. Hanselman said we have to make sure complaints are acted upon. He hopes in the future that would be reviewed if the code is looked over. Tokos told Hanselman if he had an issue with how somebody is behaving to absolutely bring it up with Vacasa. Most have an owner or other operator. First talk to the point of contact because they want to know. They want to be good neighbors. They don't want to be in the crosshairs. He said that the City has limited enforcement. But, if you have been trying to work with them, and they have been blowing you off and the issue is not getting resolved, the City can step in there. Then the Community Services Officer can do something.

Tokos said it's a function of what's happening in Nye Beach; the success of Nye Beach. He noted that there are no vacation rentals in Wilder. East of 101, you don't see many vacation rentals. The further removed from the ocean, the less number you see. There's not the demand for second homes there. Tokos said there's some concentration on the north end of Nye Beach

where that large condominium development is by Jump Off Joe. Branigan noted that the Embarcadero is another big area. Patrick said looking at the map, he was trying to figure out what those were south of Coast Street and Olive. Tokos said he would have to take a look. They probably tend to be condo units converted to vacation rentals. He noted that with the scale of this map and the size of the stars, they can shift around a little. They're not exact, but just showing location.

Tokos will be providing monitoring to the Council. He's already including a report in the department reports, which is posted to the City's website. If we see any kind of sizeable increase, he will bring it to the Council's attention. Patrick said right now, it's about the same as houses are going. Tokos said Airbnb may start to explode. It could change. Branigan thought that some of Engler's issues go back to the parking issues because of vacation rentals. There are not a lot of driveways. If four people are occupying the VRD, you may have four cars. They do have a parking issue down there. Tokos said that parking is part of it. Engler brought up the city center core. Part of this is a concern on her part where Nye Beach could end up and whether it will be cottage-type commercial and residential or larger massive structures. Steps were taken by the Design Review group to temper the architecture. Vanderbeck asked if the old West Coast Linens lot isn't being a parking area. Tokos said part of it has to be because of environmental issues. The west side is not as bad. The City doesn't enforce environmental condition issues; that's between the owner and DEQ. The owner is looking to do parking on the east side. Croteau said the owner could charge for parking, too.

4. **Adjournment.** Having no further discussion, the meeting adjourned at 7:15 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
Monday, May 9, 2016

Commissioners Present: Jim Patrick, Rod Croteau, Lee Hardy, Jim Hanselman, Bob Berman, and Bill Branigan.

Commissioners Absent: Mike Franklin (*excused*).

City Staff Present: Community Development Director (CDD) Derrick Tokos and Executive Assistant Wanda Haney.

1. **Call to Order & Roll Call.** Chair Patrick called the meeting to order in the City Hall Council Chambers at 7:17 p.m. On roll call, Hardy, Berman, Croteau, Patrick, Hanselman, and Branigan were present. Franklin was absent but excused.

2. **Approval of Minutes.**

A. Approval of the Planning Commission regular session meeting minutes of April 11, 2016.

MOTION was made by Commissioner Croteau, seconded by Commissioner Berman, to approve the Planning Commission regular session meeting minutes as presented. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** No public comments.

4. **Action Items.** No action items.

5. **Public Hearings.** No public hearings.

6. **New Business.**

A. **Appointments to fill the vacancies on the Planning Commission's Citizen Advisory Committee.** At their work session, the Commission had interviewed two of the three candidates for the advisory committee. Tokos noted that even though the Commission has two vacancies on the Advisory Committee and three candidates, he didn't know that they are limited to just having three members on the committee; it could be expanded to four. Croteau thought it would be good to expand to four. He noted that Marvin Straus, who wasn't able to attend tonight, has an engineering background. For matters dealing with things like wave and wind energy, he thinks that would be valuable. Hardy asked if the Commissioners could vote for some but not all. Tokos suggested taking them one at a time. Hanselman said that he has worked with Mr. Straus and thinks he is an outstanding candidate for an advisory committee member. He said that Straus's application reflects the quality person that he is; he has the capabilities and skill set. Hanselman said he understands it's hard to vote on someone you've never met or talked to.

A voice vote was taken on appointing Robert Heida. Heida was elected with a unanimous vote. A vote was taken on Karmen Vanderbeck. Vanderbeck was elected unanimously. A vote was taken on Marvin Straus. Straus was elected in a 5-1 vote, with Patrick, Croteau, Hanselman, Berman, and Branigan voting in favor; and Hardy opposed.

Patrick thought that when the Commission has an opportunity for four people who want to serve, the Commission should take them all. Tokos noted that this is an ad hoc committee formed by the Planning Commission; it's not a formal City Committee per se. So, the Commission is free to flex that as you feel you need to.

7. **Unfinished Business.** Unfinished business was discussed under Director Comments.

8. **Director Comments.**

A. Tokos noted that the annexation of the reservoir property was approved by the City Council at their last meeting. So, that's finished. He noted that annexations have to go to the Department of Revenue, and there were about three changes we did to satisfy them. They get technical to make sure that everything is perfect for the land descriptions because it becomes subject to city taxes; although this is all public zoned. The Department of Revenue are sticklers and want it perfect.

B. Tokos noted that the LID code changes are done, too. It will go into effect June 1st. So that project is about wrapped up. The City will be meeting with people on Golf Course Drive; and that will probably be the first LID that gets funded. We won't know the exact figures until fall. That code will be put to use, and we'll see an uptick on LID formation. He said that people are in the mood to engage their neighbors.

C. Tokos said there doesn't appear to be anything on the agenda for the next May meeting. The Commission does have a public hearing on June 13th for a UGB minor amendment. There may be a work session for the first June meeting as well.

D. Tokos will be taking an ordinance to the City Council to extend the existing parking districts (economic improvement districts) for two years. He will get those to the Council shortly so that they're in effect before July 1st.

E. The second budget meeting will be Tuesday evening, and Tokos will be attending. He noted that he's in the process of recruiting for the Senior Planner position. We advertised the position once, but had a hard time getting people to apply. What he's done is expand the position to an Associate or Senior Planner; and that advertisement is out. This time, we're going with a hard deadline instead of "until filled;" and he thinks that's June 10th. Hopefully we'll get a few more applicants. Once that person is on staff, our department will be up to the staffing level that was pre-recession. The Commission will probably find a few more work session items. We'll start moving the legislative stuff more rapidly than we have.

F. Tokos said he's knee-deep in trying to wrap up the paperwork to gain the properties up on 70th. A FEMA representative has been out here the last two weeks. FEMA is looking for a full acquisition package so we can see any funds for acquisition. The upfront appraisal and title work has been performed. We're pulling in quotes from manufactured dwelling haulers and dismantlers, too. There's still some needed paperwork some owners need to provide to the Feds, like proof of citizenship and the hazardous materials worksheet. Croteau asked if this is basically a vacation of the land. Tokos said the City would acquire the parcels, the homes would be removed, the foundations and slabs would be taken out, and services capped off at the curb line. We would need to deal with the slopes in some areas. The City would own the land as open space in perpetuity. It will be \$0.75 on the dollar to the homeowners, which is better than nothing. It would cost a lot to stabilize those parcels; and these are folks of modest means. Croteau said it sounds like we're losing affordable housing instead of gaining. Tokos said the six remaining homes are salvageable. The approach is to have them broken down, wrap them, hauled to the airport and store them, and work with nonprofits to repurpose them. They're perfectly good homes. In repurposing them it's unlikely we can act in the time we have. We'll have to haul them. The City is probably incurring independent costs. We'll probably have to have them rewrapped before we can get rid of all of them. In that way we don't lose inventory; it gets moved to somewhere else and not destroyed. We will have an engineering geologist do a report. It's an involved process. There's lots of paperwork.

G. Going back to the LID discussion, Patrick asked if we're going to do something about the sidewalks in town; either through LIDs or the TSP? Tokos said that sidewalks are picked up in different areas. Multi-use paths, too. We reserve \$15 thousand per year for sidewalk work. Most of it being done right now tends to be small infill. We're about to do the Bay Front between the Historical Society property and Local Ocean. That was funded by the parking district. Next year, we'll put sidewalk up Harbor. That's an \$80 thousand project where half is coming from the parking district. We have multi-use path work in South Beach along Abalone by OMSI. Where the State is scaling up for the signal work at 35th, there will be a multi-use path loop. There's sidewalk from Ferry Slip all the way up 40th. We have Urban Renewal funds paying for it leveraging matches from large private property owners. Patrick said what he was thinking was that we need to get sidewalk on Nye Street. Tokos said we've talked about community development block grant funds to do sidewalk over by the housing. He thinks that's an option we can pursue at some point. There's some by Betty Wheeler. That deals with spots. We do have an enhancement grant application for sidewalk on the east side of 101 to connect with Little Creek apartments at 35th and tie in at 25th. Hanselman asked about plans for sidewalk along Oceanview Drive. Tokos said that's difficult. It's not in the foreseeable future. The

problem with Oceanview is that it's very narrow right-of-way and you have a lot of people who have put landscaping improvements in the right-of-way. We ran into that on 3rd Street. Right or wrong, people get invested in the right-of-way next to their property. Hanselman said he was concerned about the area that had the speed limit changed from 25 to 35, which makes it more dangerous for people in the street because there's no sidewalk. Tokos said there are traffic standards that have to be met for a change in the speed limit. They would put counters out there, and it's up to the City Engineer to take a look at it. Tokos said there will be some improvements done to the crosswalk there as we get further along in the Big Creek pump station project that will make the crosswalk more apparent. He said there's one last round of sidewalk in South Beach east of Ferry Slip on 35th. Sidewalks are being done where we have available funds. The \$15 thousand is to do pieces here and there.

H. Croteau said there seems to be a lot going on in town regarding homelessness, vacation rentals; and it all comes back to affordable housing and the barriers to that. He recalled that there had been talk about a working group of folks like contractors and bankers. He wondered if that had made any traction in actually defining the barriers and what the City can do. Tokos said the City Council is struggling with it. They got caught up with the Land Trust over the property by Don Davis Park. Their positions run the gamut; we have a whole spectrum. It's still a sore subject with some of them; and we're trying to figure out how to reconcile that. City Manager Nebel has offered to set up a multi-jurisdictional meeting for our Council to sit down with the County Commissioners and Lincoln City Councilors to ascertain what we're trying to accomplish. He feels the construction excise tax is more effective if done countywide because you bring in more resources. There's a difference between what you can do as an individual jurisdiction and what you can if you pool resources. This might be a situation where we don't want to do it as an exclusive jurisdiction. The multiple unit property tax exemption is another good example of that. If both the City and the County do it, then those properties in Newport receive benefits. We need backing by policymakers. He noted that we will pull together a group on SDCs and construction excise tax, which will be next fall.

I. Berman noted that the Parks System Master Plan was on the goals list. He asked if that is getting started. Tokos said it will be delayed another year because of the visioning process. Some TSP work will be as well. Not only is it difficult to manage other projects and do visioning as well, but it would be inappropriate to do a Parks System Master Plan while doing the visioning because parks would be part of that. Berman said that's the same as it was for the multi-use trail at the reservoir. He thought a Parks Master Plan would be great. Tokos said it's partially funded now and will be fully next fiscal year. We will have funding to do it, but the City Council wanted higher visioning information from the community. It will include a general thought about parks and where they should go before we get into the Parks Master Plan, or the 101 by-pass for that matter. Patrick thinks we need to see an overview first; what's our roadmap for where we're going and then start putting in the pieces. We have been doing it the other way around. Tokos said the visioning is the City of Newport, but greater Newport. We pulled in the school district, the Port, County Health and Human Services, police, and fire. He noted that the consultant interviews are set for June 24th. We're down to four or five. He should have his additional staff person on board by then, or at least hired. We're looking at that work in the fall. We can move the construction excise tax discussion into that. That's a pretty good place where we can make an argument to industry. There has been a lot of discussion on what our employers can do. Say they're paying a 3% excise tax every time they're expanding, they are contributing. On the flip side, they're not responsible for providing housing units or doing something on an on-going basis; it's a one-time contribution.

9. Adjournment. Having no further business, the meeting adjourned at 7:49 p.m.

Respectfully submitted,

Wanda Haney
Executive Assistant

PLANNING STAFF MEMORANDUM
FILE No. 1-UGB-16/1-CP-16

I. Applicant: Terry Lettenmaier & Laurie Weitkamp (Fox N. Bush, LLC, Owner).

II. Request: Application for a minor amendment to the Newport Urban Growth Boundary (UGB) to accommodate a property line adjustment that will add and remove 6 acres of land. The land within the UGB is part of the Wolf Tree Destination Resort Planned Development. Property outside of the UGB is designated for forest uses. The proposal would also include an amendment to the Newport Comprehensive Plan map designating the property being added to the UGB as “High Density Residential” with the limitation that it can only be developed in an urban manner as part of the destination resort.

III. Planning Commission Review and Recommendation: The Planning Commission will review the proposed amendments and provide a recommendation to the City Council. At a later date, the City Council will hold an additional public hearing prior to any decision on the amendments.

IV. Findings Required: Required findings are contained in the “Urbanization” element of the Newport Comprehensive Plan (pages 273 - 284), as amended by Ordinance No. 2049, effective March 21, 2013. Additional findings are listed under the “Administration of the Plan” element of the Comprehensive Plan (pages 285 - 292). Key findings are summarized as follows:

- A. **Land Need:** Establishment and change of urban growth boundaries shall be based on the following:
 1. Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and
 2. Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection; and
 3. For land exchanges, OAR 660-024-0070 provides that a local government considering an exchange of land may rely on the land needs analysis that provided the basis for its current acknowledged plan, rather than adopting a new need analysis, provided (a) the land added to the UGB for the specific type of residential need is substantially equivalent to the amount of buildable residential land removed, and (b) the local government applies the same comprehensive plan designations to the land added as applied to the land that is being removed.
- B. **Boundary Location:** The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:
 1. Efficient accommodation of identified land needs;
 2. Orderly and economic provision of public facilities and services;
 3. Comparative environmental, energy, economic, and social consequences; and
 4. Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB; and
 5. OAR 660-024-0065 sets out parameters for the boundary location study area and requires that such study area include all lands within 1-mile of the Newport UGB, and lands even further removed if they are in a contiguous exception area. Lands within a tsunami inundation zone, or that are prone to landslides or flooding, may be excluded. The same goes for significant scenic, natural, cultural, or recreational resources; and
 6. OAR 660-024-0067 requires that non-resource land within the study area that accommodates the identified land need must be given priority over resource land.

- C. Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement.

These findings are addressed in Attachments "E" and "F" to this report.

V. Planning Staff Memorandum Attachments:

- Attachment "A" – "Urbanization" element of the Newport Comprehensive Plan (required findings)
- Attachment "B" – "Administration of the Plan" section of the Newport Comprehensive Plan
- Attachment "C" – OAR 660-024-0070, UGB Adjustments (relevant language highlighted)
- Attachment "D" – OAR 660-024-0065 and OAR 660-024-0067 Establishment of Study Area and Prioritization of Land for Inclusion in the UGB (relevant language highlighted)
- Attachment "E" – Findings in support of the UGB expansion submitted by the applicant, dated May 2016
- Attachment "F" – Supplemental analysis prepared by city staff, dated June 8, 2016
- Attachment "G" – Notice of public hearing
- Attachment "H" – Husing email, dated April 25, 2016, concurring amendment is minor in nature
- Attachment "I" – Patrick Wingard email, dated June 2, 2016, commenting on the application

VI. Notification: Notification for the proposed amendments included notification to the Department of Land Conservation & Development (DLCD) in accordance with the DLCD requirements on May 10, 2016. Notice of the Planning Commission hearing was mailed to affected property owners on May 18, 2016, and was published in the Newport News-Times on June 8, 2016 (Attachment "G").

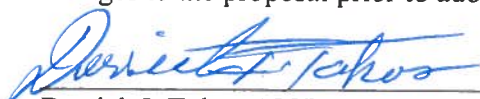
VII. Comments: As of June 8, 2016, one comment was received regarding the proposed application. It was submitted by Patrick Wingard, DLCD, on June 2, 2016 (Attachment "I").

VIII. Discussion of Request: This application seeks to amend the Newport UGB to align with a proposed property line adjustment involving the exchange of 6 acres of land. This will allow the land owners to develop their respective properties with single family homes under County zoning regulations. The properties are outside the Newport city limits; however, the Lettenmaier parcel is inside the UGB, which was expanded to include the piece as part of the Wolf Tree Destination Resort back in 1987. As the applicant notes, they withdrew the property from the city limits in 2013 (Ord. 2057) so that they could develop a rural home site, which is not possible under the destination resort zoning overlay.

Under the Oregon land use system, justifying a UGB amendment is a two-step process: (1) demonstrate land need; and (2) analyze potential boundary locations. Local governments must address both parts in the UGB application and associated findings. Moreover, the City must address applicable City and County criteria. Consistent with Policy 4.3 of the Newport Comprehensive Plan, the Planning Director's for the City and County shall determine whether or not a change is a minor or major amendment. Both Director's concur that this proposal qualifies as a minor amendment (see Attachment "H").

The proposal includes an amendment to the Newport Comprehensive Plan Map for the 6-acres being added to the UGB. That land will receive a "High Density Residential" plan designation and, upon annexation, it would be zoned "High Density Multi-Family Residential" (R-4) with a planned destination resort zoning overlay.

IX. Conclusion and Recommendation: The Planning Commission should review the proposed amendments and make a recommendation to the City Council. As this is a legislative process, the Commission may recommend changes to the amendments if the Commission chooses to do so. The City Council may also make changes to the proposal prior to adoption of a final decision.



Derrick I. Tokos AICP
Community Development Director
City of Newport
June 9, 2016

URBANIZATION*

The Newport urban area includes lands within the city limits. It becomes necessary, however, to identify lands outside those limits that will become available for future growth. With that in mind, the City of Newport and Lincoln County have agreed upon a site specific boundary that limits city growth until the year 2031.

The urban growth boundary (UGB) delineates where annexations and the extension of city services will occur. Converting those county lands within the UGB requires coordination between the county, the property owners, and the city. This section provides the framework and the policies for those conversions and service extensions. The decision makers can also use this section as a guide for implementation of the urbanizing process.

The city and county made the policies of this section as part of a coordinated effort. Involved in the process were the governing bodies and planning commissions of both jurisdictions. The Citizen's Advisory Committee, concerned citizens, and other affected agencies also participated in the process.

Newport Urban Growth Areas:

Land forms are the most important single determinant of the directions in which Newport can grow. Newport is bounded on the west by the Pacific Ocean and on the east by the foothills of the Coast Range. In addition, the city is divided by Yaquina Bay. The only suitable topography for utility service and lower cost urban development is along the narrow coastal plain. Some development has occurred in the surrounding foothills and along the Yaquina River and creek valleys, but this is generally rural development of low density without urban utilities. The following inventory describes areas evaluated as to their suitability to accommodate expected growth.

A. Agate Beach Area (North Newport/390 Acres):

Inventory. This study area consists of both urbanized and undeveloped land (see map on page 283). Of the 390 acres available for residential development, 225 lie within the unincorporated area of the UGB, and 165 acres are within Newport's city limits. (The urbanized area contains approximately 60 acres.)

The urbanized area was platted in the 1930's, with growth occurring gradually since that time. The area is primarily residential and has a mixture of houses, mobile homes, trailers, and some limited commercial uses along U.S. Highway 101. The area was previously served by the Agate Beach Water System, which frequently failed to meet federal water quality standards and had inadequate line size and pressure to serve existing customers and projected growth. The City of Newport rebuilt the water system and installed a sewer system at the cost of approximately \$1.4 million.

The unincorporated portions of this study area have been included in Newport's UGB

to help meet anticipated need for residential land. The land is relatively level, water services and road access are immediately adjacent, and sewer is available. The area has been urbanized to a degree already and is suitable for continued residential development. Much of this area has been platted into 5,000 square foot lots, which are both suitable for mobile home placement and "buildable" as sewer is extended.

Analysis. Because most of this area has been previously platted into 50 x 100 foot lots, land costs can be expected to be lower than in newly platted areas of the city. Many mobile homes and trailers currently exist in this area, and smaller lots are appropriate for mobile homes.

Finding. This area is suitable for continued residential development and is designated residential. In addition, because of the smaller lot sizes and the existence of many mobile homes in the area, a mobile home overlay zone is desirable and compatible with existing uses. Areas of larger acreage on both the east and west side are suitable for high density residential use with the mobile home overlay so that new mobile home parks may be built in the area as outright uses, as well as allowing apartments. Existing commercial development along U.S. Highway 101 should be allowed to remain.

B. Agate Beach Golf Course and Little Creek Drainage Area (North Newport/93 acres):

Inventory. This area lies south and east of the golf course, west of the west line of Section 33, and east of Highway 101, all of which is within the city limits (see map on page 283). The area is generally undeveloped, and it slopes steeply toward Little Creek.

The area has been planned to be served by city water and sewer and a major new road. It is zoned for low and high density residential development.

Analysis. Because of the steep slopes, this is the type of area where a planned development is often appropriate. It borders a mobile home park to the south and is geographically well separated from other areas of conventional housing; therefore, mixed residential development can be considered for the property with little possible conflict.

Finding. Because of the topography, either low density residential development with a planned development overlay or high density residential development would be appropriate designations. However, the former would insure more open space in the long range.

C. West Big Creek Drainage Area (North Newport/40 acres):

Inventory. This area lies south of the Pacific Beach Club, east of U.S. Highway 101, and west of Lakewood Hills (see map on page 283). It has not yet been developed.

Analysis. Much of the area is in a flood plain. However, it has been studied for a planned development and is suitable for high density residential use.

Finding. High density residential will be the designation for this property. The land may be suitable for a planned unit development.

D. East Big Creek Drainage Area (City Reservoir):

Inventory. This area drains into the city reservoir, and the city owns the majority of the land (see map on page 283). There are several smaller private parcels with houses and livestock.

Finding. This area could eventually be used as a large city park or residential area once the reservoir is no longer used for the city water supply. During the planning period, this area should be protected from further residential development.

That land which is not needed for public park land shall be considered for return to the private sector for housing.

E. Jeffries Creek Drainage Area (Northeast Newport/220 Acres):

Inventory. This area is south of the city reservoir, north of Old Highway 20, east of Harney Street, and west of the eastern half of Section 4 (see map on page 283). This area contains the Terrace Heights, Virginia Additions, Kewanee Addition, and the Beaver State Land property. There is very little development in the area as yet. Fifty-five acres lie within Newport's city limits.

Analysis. Platted around the turn of the century, this area has long been planned for low density residential development. Little has occurred so far due to more accessible development closer to Newport. This is no longer the case, and this land is now needed for housing.

Finding. This area has steep slopes, no existing utilities as yet, and will be expensive to develop. However, much of the property will have ocean or bay view. The area is appropriate for low density development.

F. Harbor Heights Area (Southeast Newport/267 Acres):

Inventory. This study area lies east of Harbor Heights to the urban growth boundary and north of Bay Road to the urban growth boundary (see map on page 283). Of its 267 acres, approximately 44 are within Newport's city limits.

Analysis. This is an area where lot sizes might well be raised to a higher minimum to encourage the maintenance of the vegetation that helps stabilize the entire area. This would be a high cost housing area with very low density development.

Finding. The area is steep with some slide potential. Dotted with residential uses, the area commands a view of the bay and is in heavy demand. A low density residential designation is appropriate for this area.

G. Idaho Point Area (South Beach/120 Acres):

Inventory. This area stretches from South Bay Street to the Idaho Point Marina and from S.E. 32nd Street south to the forest lands (see map on page 283).

Analysis. The existing water system is inadequate and is being replaced, along with city sewer. Some of the area is in demand for its bay view, and much of the land could be developed for medium to high cost housing. The topography varies from flat to steeply sloping, with most in the in between category; therefore, development costs will vary.

Finding. The topography in the area varies from flat to steeply sloping, with most of it moderately sloping. The existing water system is inadequate and sewer is not yet available. Some low density residential uses currently exist, and the area has been planned for a mix of low and high density residential.

H. South Beach (South of Newport/560 Acres):

Inventory. The area extends from S.E. 32nd Street to the southern boundary of the Newport Municipal Airport and from the southerly extension of Bay Street to U.S. Highway 101 (see map on page 283).

Analysis. The area has long been planned for urban development and is currently coming along in that manner. Newport has planned for many years to encourage industrial development in South Beach.

Finding. It is the only area for which the city has planned industrial development that would allow non-water related or non-water dependent industrial development. The area will need city sewer and other city services.

I. Wolf Tree Destination Resort (South of Newport/1,000 Acres):

Inventory. The city extended its urban growth boundary and the city limits to include about 1,000 acres for the Wolf Tree Destination Resort consistent with Goal 8 (see map on page 284). The area includes about 800 acres south of the Newport Municipal Airport, with another 200 acres lying east of the airport. The region has a special plan and zoning designation that limits the land for a destination resort.

Analysis. Currently undeveloped except for a few scattered residences, the area has been planned for a destination resort since 1987. The south area is presently in the city limits, but the easterly 200 acres is not. The Wolf Tree property was brought into the UGB and annexed to the city only after a Goal 8 Destination Resort analysis and a limitation on

the property to the development of a destination resort. Many state and federal agencies were involved in the process that brought this property into the UGB and the city limits.

Finding. The project complies with Goal 8/"Destination Resort." The property cannot be developed except as a destination resort consistent with state and city law.

Finding. The City of Newport has established its urban growth boundary as indicated on the city's Comprehensive Plan Map (available in the city's Planning Department office), in accordance with the following findings and as demonstrated in the inventory:

- > The projected population growth requirements of the City of Newport, as demonstrated in the inventory, cannot be met within the existing city limits.
- > In order to provide adequate housing opportunities and needed employment and to plan for a livable environment, there is a need for additional acreage beyond that currently available within the Newport city limits.
- > The City of Newport has planned for the urbanization of the UGB area based upon the city's long-range plan and capacity to extend needed facilities and service during the planning period.
- > In determining the most appropriate and efficient land uses and densities within the UGB, the City of Newport has considered current development pattern limitations posed by land forms, as well as the city's needs during the planning period.
- > In establishing its UGB, the City of Newport has considered and accounted for environmental, energy, economic, and social consequences as demonstrated in the inventory.
- > There are no agricultural lands adjacent to the Newport urban growth boundary.
- > What alternative locations within the area have been considered for the proposed needs.

GOALS/POLICIES/IMPLEMENTATION MEASURES

URBANIZATION

Goal: To promote the orderly and efficient expansion of Newport's city limits.

Policy 1: The City of Newport will coordinate with Lincoln County in meeting the requirements of urban growth to 2031.

Implementation Measure 1: The adopted urban growth boundary for Newport establishes the limits of urban growth to the year 2031.

- 1.) City annexation shall occur only within the officially adopted urban growth boundary.
- 2.) The official policy shall govern specific annexation decisions. The city, in turn, will provide an opportunity for the county, concerned citizens, and other affected agencies and persons to respond to pending requests for annexation.
- 3.) Establishment of an urban growth boundary does not imply that all included land will be annexed to the City of Newport.

Policy 2: The city will recognize county zoning and control of lands within the unincorporated portions of the UGB.

Implementation Measure 2: A change in the land use plan designations of urbanizable land from those shown on the Lincoln County Comprehensive Plan Map to those designations shown on the City of Newport Comprehensive Plan Map shall only occur upon annexation to the city.

- 1.) Urban development of land will be encouraged within the existing city limits. Annexations shall address the need for the land to be in the city.
- 2.) Urban facilities and services must be adequate in condition and capacity to accommodate the additional level of growth allowed in the city's plans. Those facilities must be available or can be provided to a site before or concurrent with any annexations or plan changes.

Policy 3: The city recognizes Lincoln County as having jurisdiction over land use decisions within the unincorporated areas of the UGB.

Implementation Measure 3: All such decisions shall conform to both county and city policies.

- 1.) Unincorporated areas within the UGB will become part of Newport; therefore, development of those areas influences the future growth of the city. Hence, the city has an interest in the type and placement of that growth. Lincoln County shall notify the city of any land use decision in the UGB lying outside the city limits. The county shall consider recommendations and conditions suggested by the city and may make them conditions of approval.
- 2.) The city shall respond within 14 calendar days to notifications by the county of a land use decision inside the adopted UGB. The county may assume the city has comments only if they are received inside of that 14 days.

Policy 4: The development of land in the urban area shall conform to the plans, policies, and ordinances of the City of Newport.

Implementation Measure 4a: The City of Newport may provide water and wastewater services outside the city limits consistent with the policies for the provision of such services as identified in the applicable Goals and Policies of the Public Facilities Element of the Comprehensive Plan.

Implementation Measure 4b: Amendments to UGB Boundaries or Policies. This subsection delineates the procedure for joint city and county review of amendments to the urban growth boundary or urbanization policies as the need arises.

1.) **Major Amendments:**

a.) Any UGB change that has widespread and significant influence beyond the immediate area. Examples include:

- (1) Quantitative changes that allow for substantial changes in the population or development density.
- (2) Qualitative changes in the land use, such as residential to commercial or industrial.
- (3) Changes that affect large areas or many different ownerships.

b.) A change in any urbanization policy.

2.) **Minor Boundary Line Adjustments:** The city and county may consider minor adjustments to the UGB using procedures similar to a zone change. Minor adjustments focus on specific, small properties not having significant impact beyond the immediate area.

3.) **Determination of Major and Minor Amendments:** The planning directors for the city and county shall determine whether or not a change is a minor or major amendment. If they cannot agree, the planning commissions for the city and county shall rule on the matter. The request shall be considered a major amendment if the planning commissions cannot agree.

4.) **Initiation, Application, and Procedure:** Individual or groups of property owners, agencies that are

affected, the planning commissions, or the city or county governing bodies may initiate amendments. Applicants for changes are responsible for completing the necessary application and preparing and

submitting the applicable findings with the application. The planning commissions for the city and county shall review the request and forward recommendations to the Newport City Council and the Lincoln County Board of Commissioners.

The city and county governing bodies shall hold public hearings on the request. Amendments become final only if both bodies approve the request.

5.) Findings shall address the following:

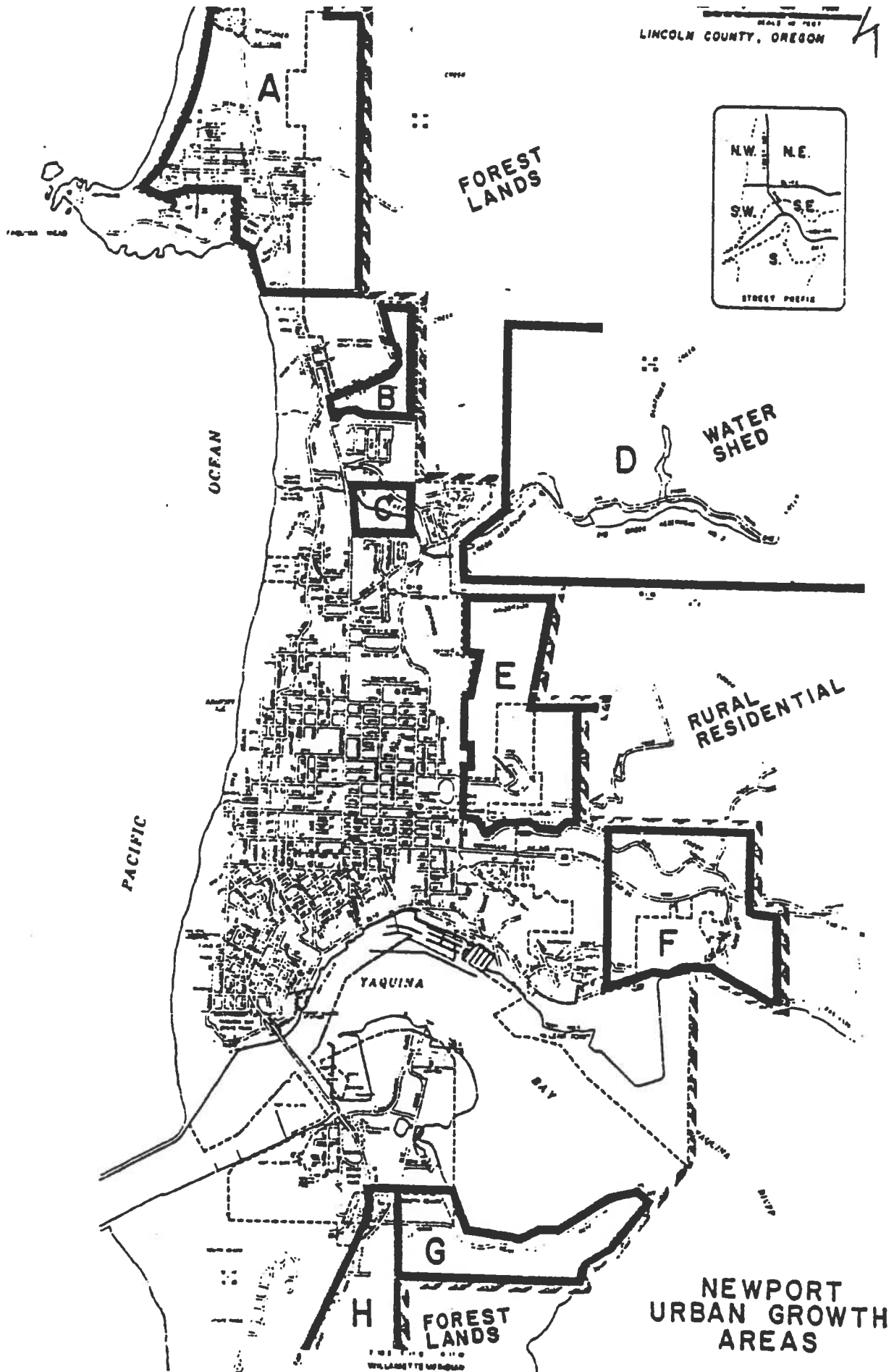
- a.) Land Need: Establishment and change of urban growth boundaries shall be based on the following:
 - 1.) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and
 - 2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks and open space, or any combination of the need categories in this subsection;
- b.) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:
 - 1.) Efficient accommodation of identified land needs;
 - 2.) Orderly and economic provision of public facilities and services;
 - 3.) Comparative environmental, energy, economic, and social consequences; and
 - 4.) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.
- c.) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement.

6.) Correction of Errors: Occasionally an error may occur. Errors such as cartographic mistakes, misprints, typographical errors, omissions, or duplications are technical in nature and not the result of new information or changing policies. If the Newport City Council and the

Lincoln County Board of Commissioners become aware of an error in the map or text of this adopted urbanization program, either body may cause an immediate amendment to correct the error. Both bodies must, however, agree that an error exists. Corrections shall be made by ordinance after a public hearing. The governing bodies may refer the matter to their respective planning commissions, but that is not required.

Policy 5: The city is responsible for public facilities planning within its urban growth boundary.

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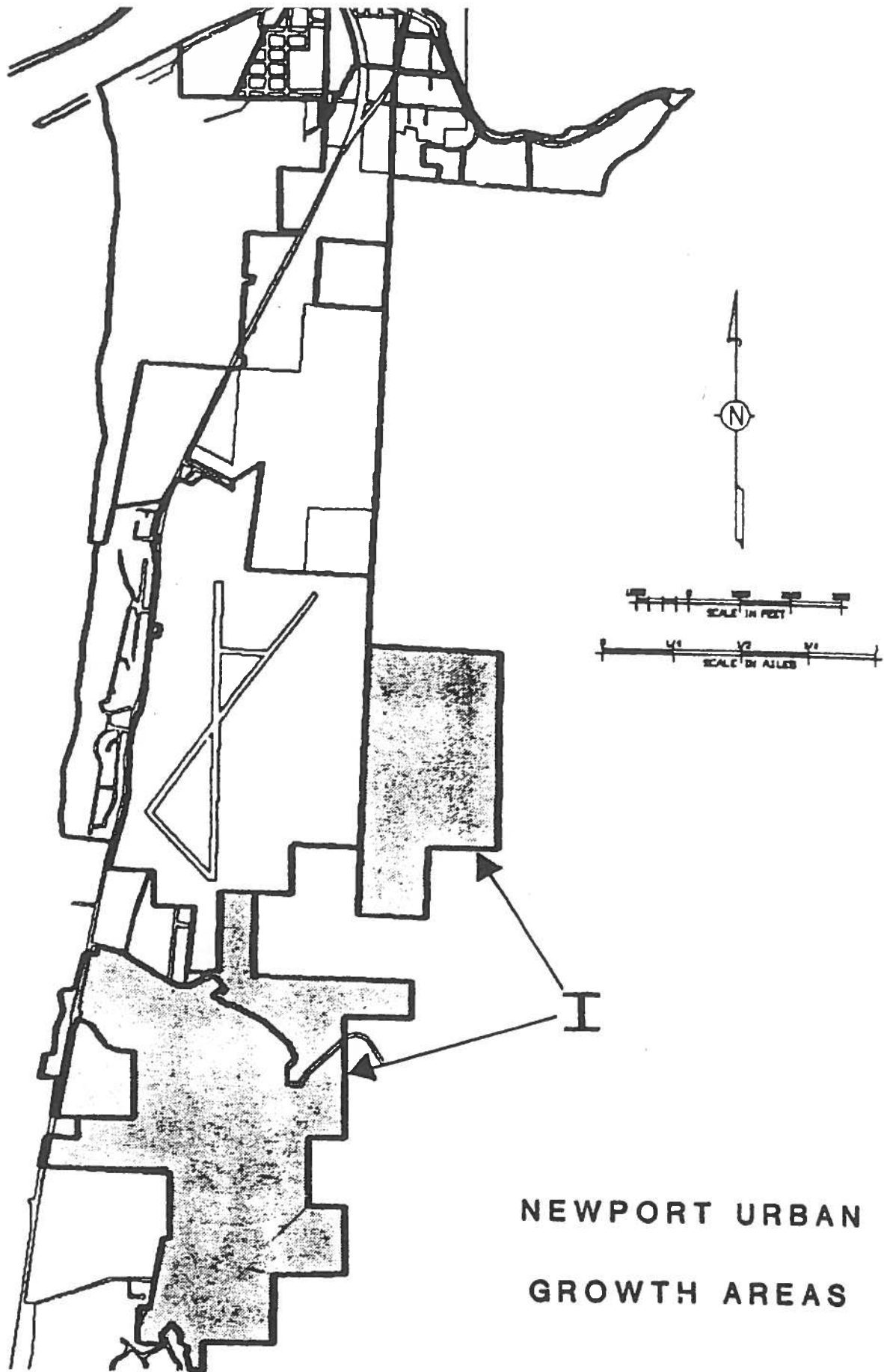




NEWPORT
URBAN GROWTH
AREA

FOREST
LAND

H





NEWPORT URBAN
GROWTH AREAS

ADMINISTRATION OF THE PLAN

Introduction:

Planning is a process. Because conditions change, the planning process should remain dynamic. Oregon's statewide planning program addresses this need in two ways: First, a post acknowledgement review process exists to assure that local amendments to a state acknowledged plan or implementing ordinance comply with the statewide planning goals; second, a periodic review program mandates the maintenance of local comprehensive plans. Cities must submit their plans every four to seven years to the state, who in turn reviews the plans for consistency and compliance with new rules and statutes.

In addition to state requirements, local jurisdictions should have a well defined review and amendment process. That process should attempt to strike a balance between changing circumstances and the need to provide certainty in the rules. This section presents such a process.

There are two types of comprehensive plan changes, text and map.

Text Amendments

Changes to the text of the plan shall be considered legislative acts and processed accordingly. These include conclusions, data, goals and policies, or any other portion of the plan that involves the written word.

Map Amendments¹

There are three official maps within this plan. They are (1) the General Land Use Plan Map (commonly called the "Comp Plan Map"), (2) the Yaquina Bay Estuary and Shorelands Map (page 272), and (3) the Ocean Shorelands Map (page 50).

¹ Map Amendments Section amended by Ordinance No. 1868 (February 17, 2004).

Three types of amendments are possible to each of these maps. The first involves wide areas of the map and many different properties, and these are considered major, legislative changes (see the urbanization section on page 273 for definitions). The second usually involves small areas and affects only a few pieces of property. These amendments are considered minor (again, see the urbanization section for definitions), and are quasi-judicial in nature. The third amendment is an amendment based on a demonstrated error in a map designation of a property or the establishment of boundaries on one of the maps. Errors may include, but are not limited to cartographic mistakes, scrivener's errors in a description of a designation or boundary, incorrect map designations of property based on an erroneous assumption of property ownership, the need to reconcile conflicts between a comprehensive plan map designation and a zoning map designation of a property, or the need to adjust comprehensive plan designations or boundaries based on the correction of errors in the Urban Growth Boundary under the Newport Comprehensive Plan process for resolution of errors in the Urban Growth Boundary.

Major, minor, and error amendments to any of the three maps shall be processed consistent with the procedure established in 2-6-1/"Procedural Requirements" of the Zoning Ordinance (No. 1308, as amended). Major, minor, and error amendments to the maps shall be accompanied by findings addressing the following:

A. Major Amendments:

- 1.) A significant change in one or more goal or policy; and
- 2.) A demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities; and
- 3.) The orderly and economic provision of key public facilities; and
- 4.) Environmental, energy, economic, and social consequences; and
- 5.) The compatibility of the proposed change with the community; and
- 6.) All applicable Statewide Planning Goals.

B. Minor Amendments:

- 1.) A change in one or more goal or policy; and
- 2.) A demonstrated need to accommodate unpredicted population trends, housing needs, employment needs or change in community attitudes; and
- 3.) The orderly and economic provision of key public facilities; and
- 4.) The ability to serve the subject property(s) with city services without an undue burden on the general population; and
- 5.) The compatibility of the proposed change with the surrounding neighborhood and the community.

C. Error Amendments:

- 1.) An error was made in the establishment of a map designation or boundary; and,
- 2.) The correction of the error by the amendment of a map designation or boundary is necessary to resolve an issue created by the error.

Initiation:

A comprehensive plan text revision may be initiated by the Newport City Council, the Newport Planning Commission, the owner (or his/her authorized representative) of any property included in the urban growth boundary, or any resident. Changes proposed by a property owner or resident shall be initiated by the filing of an application for such change. The application shall be on a form prescribed by the City of Newport. Accompanying the application shall be a fee. The City Council shall from time to time set, by resolution, the fees for comprehensive plan changes.

All modifications initiated by a motion of the City Council or an application from a property owner or resident shall be forwarded

to the Planning Commission for review and recommendation, who shall review the request and send a recommendation back to the City Council.

Hearings and Notification:

All changes shall be considered by the Planning Commission and City Council at public hearings. Notices and other procedural requirements shall be made in accordance with Section 2-6-1 of the Zoning Ordinance.

The City Council shall hear the matter at a regularly scheduled meeting. If the Council approves the request, they shall pass an ordinance reflecting the change. Denial may be made upon a motion duly seconded and passed by a majority of the Council voting.

Findings of Fact:

All requests for amendments to the data, text, inventories, graphics, conclusions, goals and policies, or implementation strategies shall be accompanied by findings that address the following:

A. Data, Text, Inventories or Graphics:

- 1.) New or updated information.

B. Conclusions:

- 1.) A change or addition to the data, text, inventories, or graphics which significantly affects a conclusion that is drawn for that information.

C. Goals and Policies:

- 1.) A significant change in one or more conclusion; or
- 2.) A public need for the change; or
- 3.) A significant change in community attitudes or priorities; or

- 4.) A demonstrated conflict with another plan goal or policy that has a higher priority; or
- 5.) A change in a statute or statewide agency plan; and
- 6.) All the Statewide Planning Goals.

D. Implementation Strategies:

- 1.) A change in one or more goal or policy; or
- 2.) A new or better strategy that will result in better accomplishment of the goal or policy; or
- 3.) A demonstrated ineffectiveness of the existing implementation strategy; or
- 4.) A change in the statute or state agency plan; or
- 5.) A fiscal reason that prohibits implementation of the strategy.

Interpretations:

It may become necessary from time to time to interpret the meaning of a word or phrase or the boundaries of a map. Whenever such an interpretation involves the use of factual, policy, or legal discretion, a public hearing before the Planning Commission consistent with the procedural requirements contained in Section 2-6-1 of the Zoning Ordinance (No. 1308, as amended) shall be held.

A ruling for an interpretation shall be approved only if findings are presented that comply with the following:

- > The interpretation does not change any conclusion, goal, policy, or implementation strategy.
- > The interpretation is based on sound planning, engineering, or legal principles.
- > The interpretation is consistent with the Comprehensive Plan.

Additional Map Information:

The official maps shall be identified by the City Council and shall be on file with the City of Newport's Department of Community Planning and Development. A correct and up-to-date original of each map shall be maintained by the planning department. Regardless of the existence of copies of the official maps that may be made or published, the official maps shall be the final authority for determining boundaries for various districts and features.

In the event that an official map becomes damaged, destroyed, lost, difficult to interpret, or outdated, the City Council shall, by ordinance, adopt a new official map, which shall supersede the old one. Adoption of a new official map shall be a legislative matter and shall be processed as such.

Where uncertainty exists as to the boundaries of districts shown on the official maps, the following rules shall apply:

- A. Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- D. Boundaries indicated as following shore lines shall be construed to follow the mean higher high water line of such shore lines. In the event of change in the shore line, the boundary shall be construed as moving with the actual shore line.
- E. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

- F. Areas below the mean higher high water line or the line of non-aquatic vegetation, whichever is most landward in the estuarine area, shall be considered to be in the estuarine management unit rather than the adjacent shoreland zone.
- G. Boundaries indicated as parallel to or extensions of geographic features indicated in subsections 1 through 6, above, shall be so construed.
- H. Distances not specifically indicated on the official maps shall be determined by the scale of the map.

Citizen Involvement:

It is important to involve a cross section of the citizens of Newport in the development and execution of this Comprehensive Plan and its implementing ordinances. For this purpose, a process must be established to assure that citizen involvement is effective. This section is designed to outline such a procedure for the City of Newport.

The City of Newport contains a wide variety of people with many different interests. When developing new plan policies and implementing laws, it is vital to consider the various view of the community or neighborhood that will be affected by the proposal.

Timing is crucial. Too often citizens do not become involved in the planning process until a specific project is proposed. By then it is frequently more difficult to have an affect on the outcome of the project. This is compounded by the legal requirements of quasi-judicial hearings. The complicated criterion and procedural mandates are not "user friendly" and add to the frustration of persons not familiar with the process. As a result, citizens may feel that the planning does not work and they are left with a bad experience.

For developers, the perception is similar. Public hearings place an element of uncertainty in their projects. Sometimes seemingly arbitrary decisions are made, discouraging investment and innovation. Once again, planning is seen as an impediment, a necessary and expensive paper hoop that must be jumped through.

How then can a citizen involvement program be effective? For Newport, with a strong tradition of community pride and awareness, the answer lies in citizen participation in the planning of the community rather than the administration of the plan and ordinances. That means the emphasis should be placed in citizen participation in the legislative, rather than the quasi-judicial, aspect of the planning process.

When the emphasis for citizen involvement is shifted from the quasi-judicial to the legislative, the adversarial nature of the program is reduced. It is no longer the neighborhood versus the developer but a group of concerned citizens who want a well planned community. The accent is also changed from the strict, legal procedures to more informal fact finding. All voices are encouraged. People have the freedom to explore all the alternatives and consider them fully.

Once a neighborhood or community consensus can be built, ordinances can be formulated that offer clear direction for development. As long as a developer is willing to comply with the community goals, s/he can be assured that approval will be given. Innovation can be considered on a case-by-case basis and looked at in light of objective policy.

With this system, there is a unified approach to community development. This can save the general public and development community a great deal of time and money, not to mention frustration. Planning can then be a positive.

This is not to say that problems and conflicts will not arise. It would be foolish to assume that all community goals and policies will be without ambiguity and that all developers will voluntarily comply with those standards. But the point is to shift the priority away from the antagonistic view of planning and more to the cooperative.

GOALS/POLICIES/IMPLEMENTATION FOR CITIZEN INVOLVEMENT

Goal 1: To involve citizens in the development and implementation of the city's Comprehensive Plan and its implementing ordinances.

Policy 1: The city shall develop methods of community outreach that encourage participation in the planning process.

Implementation Measure #1: The Planning Commission shall serve as the official citizens' advisory committee to the City Council. Whenever a major change (as determined by the Commission) to the Comprehensive Plan or an implementing ordinance is under consideration, three persons from the community at large shall be designated by the Planning Commission as a Citizens' Advisory Committee.

Implementation Measure #2: The city may promote or assist neighborhood organizations to assist in decision making. When appropriate, the Planning Commission and/or City Council may hold meetings in neighborhoods affected by the issues under consideration.

Implementation Measure #3: If an important issue needs study, then the Planning Commission or the City Council may call for the formation of an ad hoc committee. The committee shall be appointed by the Mayor and confirmed by the City Council. Effort shall be made to select persons from different sides of the issue.

Policy 2: The city will encourage the participation of citizens in the legislative rather the quasi-judicial stage of plan development and implementation.

Implementation Measure #1: The city will make reasonable attempts to contact and solicit input in the formulation of comprehensive plan elements and ordinance provisions. The city may use the neighborhood organizations to discuss specific proposals. The media will be used as much as possible to make citizens aware of city policy and actions.

Implementation Measure #2: The city will develop clear and objective standards by which to review development proposals. Those standards should be developed only

after a concerted effort by the city to involve citizens in the formulation process.

Implementation Measure #3: The city will rely on its staff to administer the plan and ordinances if clear and objective standards can be developed. If, however, administration of a plan or implementing ordinance provision involves a legal, factual, or policy decision, the decision shall be made by the Planning Commission and/or the City Council after adequate public notice to interested or affected persons.

Implementation Measure #4: The Planning Commission shall serve as the official Committee for Citizen Involvement (CCI). On matters of neighborhood or city-wide significance, the Planning Commission shall make an effort to solicit the input of citizens.

660-024-0070

UGB Adjustments

(1) A local government may adjust the UGB at any time to better achieve the purposes of Goal 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of this rule apply when removing land from the UGB. The requirements of Goal 14 and this division[and ORS 197.298] apply when land is added to the UGB, including land added in exchange for land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB, as specified in that statute. If a local government exchanges land inside the UGB for land outside the UGB, the applicable local government must adopt appropriate rural zoning designations for the land removed from the UGB prior to or at the time of adoption of the UGB amendment and must apply applicable location and priority provisions of OAR 660-024-0060 through 660-020-0067.

(2) A local government may remove land from a UGB following the procedures and requirements of ORS 197.764. Alternatively, a local government may remove land from the UGB following the procedures and requirements of 197.610 to 197.650, provided it determines:

(a) The removal of land would not violate applicable statewide planning goals and rules;

(b) The UGB would provide a 20-year supply of land for estimated needs after the land is removed, or would provide roughly the same supply of buildable land as prior to the removal, taking into consideration land added to the UGB at the same time;

(c) Public facilities agreements adopted under ORS 195.020 do not intend to provide for urban services on the subject land unless the public facilities provider agrees to removal of the land from the UGB and concurrent modification of the agreement;

(d) Removal of the land does not preclude the efficient provision of urban services to any other buildable land that remains inside the UGB; and

(e) The land removed from the UGB is planned and zoned for rural use consistent with all applicable laws.

(3) Notwithstanding sections (1) and (2) of this rule, a local government considering an exchange of land may rely on the land needs analysis that provided a basis for its current acknowledged plan, rather than adopting a new need analysis, provided:

(a) The amount of buildable land added to the UGB to meet:

(A) A specific type of residential need is substantially equivalent to the amount of buildable residential land removed, or

(B) The amount of employment land added to the UGB to meet an employment need is substantially equivalent to the amount of employment land removed, and

(b) The local government must apply comprehensive plan designations and, if applicable, urban zoning to the land added to the UGB, such that the land added is designated:

(A) For the same residential uses and at the same housing density as the land removed from the UGB, or

(B) For the same employment uses as allowed on the land removed from the UGB, or

(C) If the land exchange is intended to provide for a particular industrial use that requires specific site characteristics, only land zoned for commercial or industrial use may be removed, and the land added must be zoned for the particular industrial use and meet other applicable requirements of ORS 197A.320(6).

660-024-0065

Establishment of Study Area to Evaluate Land for Inclusion in the UGB

(1) When considering a UGB amendment to accommodate a need deficit identified in OAR 660-024-0050(4), a city outside of Metro must determine which land to add to the UGB by evaluating alternative locations within a "study area" established pursuant to this rule. To establish the study area, the city must first identify a "preliminary study area" which shall not include land within a different UGB or the corporate limits of a city within a different UGB. The preliminary study area shall include:

(a) All lands in the city's acknowledged urban reserve, if any;

(b) All lands that are within the following distance from the acknowledged UGB:

(A) For cities with a UGB population less than 10,000: one-half mile;

(B) For cities with a UGB population equal to or greater than 10,000: one mile;

(c) All exception areas contiguous to an exception area that includes land within the distance specified in subsection (b) and that are within the following distance from the acknowledged UGB:

(A) For cities with a UGB population less than 10,000: one mile;

(B) For cities with a UGB population equal to or greater than 10,000: one and one-half miles;

(d) At the discretion of the city, the preliminary study area may include land that is beyond the distance specified in subsections (b) and (c).

(2) A city that initiated the evaluation or amendment of its UGB prior to January 1, 2016, may choose to identify a preliminary study area applying the standard in this section rather than section (1). For such cities, the preliminary study area shall consist of:

(a) All land adjacent to the acknowledged UGB, including all land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency, and

(b) All land in the city's acknowledged urban reserve established under OAR chapter 660, division 21, if applicable.

(3) When the primary purpose for expansion of the UGB is to accommodate a particular industrial use that requires specific site characteristics, or to accommodate a public facility that requires specific site characteristics, and the site characteristics may be found in only a small number of locations, the preliminary study area may be limited to those locations within the distance described in section (1) or (2), whichever is appropriate, that have or could be improved to provide the required site characteristics. For purposes of this section:

(a) The definition of "site characteristics" in OAR 660-009-0005(11) applies for purposes of identifying a particular industrial use.

(b) A "public facility" may include a facility necessary for public sewer, water, storm water, transportation, parks, schools, or fire protection. Site characteristics may include but are not limited to size, topography and proximity.

(4) The city may exclude land from the preliminary study area if it determines that:

(a) Based on the standards in section (7) of this rule, it is impracticable to provide necessary public facilities or services to the land;

(b) The land is subject to significant development hazards, due to a risk of:

(A) Landslides: The land consists of a landslide deposit or scarp flank that is described and mapped on the Statewide Landslide Information Database for Oregon (SLIDO) Release 3.2 Geodatabase published by the Oregon Department of Geology and Mineral Industries (DOGAMI) December 2014, provided that the deposit or scarp flank in the data source is mapped at a scale of 1:40,000 or finer. If the owner of a lot or parcel provides the city with a site-specific analysis by a certified engineering geologist demonstrating that development of the property would not be subject to significant landslide risk, the city may not exclude the lot or parcel under this paragraph;

(B) Flooding, including inundation during storm surges: the land is within the Special Flood Hazard Area (SFHA) identified on the applicable Flood Insurance Rate Map (FIRM);

(C) Tsunamis: the land is within a tsunami inundation zone established pursuant to ORS 455.446;

(c) The land consists of a significant scenic, natural, cultural or recreational resource described in this subsection:

(A) Land that is designated in an acknowledged comprehensive plan prior to initiation of the UGB amendment, or that is mapped on a published state or federal inventory at a scale sufficient to determine its location for purposes of this rule, as:

(i) Critical or essential habitat for a species listed by a state or federal agency as threatened or endangered;

(ii) Core habitat for Greater Sage Grouse; or

(iii) Big game migration corridors or winter range, except where located on lands designated as urban reserves or exception areas;

(B) Federal Wild and Scenic Rivers and State Scenic Waterways, including Related Adjacent Lands described by ORS 390.805, as mapped by the applicable state or federal agency responsible for the scenic program;

(C) Designated Natural Areas on the Oregon State Register of Natural Heritage Resources;

(D) Wellhead protection areas described under OAR 660-023-0140 and delineated on a local comprehensive plan;

(E) Aquatic areas subject to Statewide Planning Goal 16 that are in a Natural or Conservation management unit designated in an acknowledged comprehensive plan;

(F) Lands subject to acknowledged comprehensive plan or land use regulations that implement Statewide Planning Goal 17, Coastal Shoreland, Use Requirement 1;

(G) Lands subject to acknowledged comprehensive plan or land use regulations that implement Statewide Planning Goal 18, Implementation Requirement 2;

(d) The land is owned by the federal government and managed primarily for rural uses.

(5) After excluding land from the preliminary study area under section (4), the city must adjust the area, if necessary, so that it includes an amount of land that is at least twice the amount of land needed for the deficiency determined under OAR 660-024-0050(4) or, if applicable, twice the particular land need described in section (3). Such adjustment shall be made by expanding the distance specified under the applicable section (1) or (2) and applying section (4) to the expanded area.

(6) For purposes of evaluating the priority of land under OAR 660-024-0067, the "study area" shall consist of all land that remains in the preliminary study area described in section (1), (2) or (3) of this rule after adjustments to the area based on sections (4) and (5), provided that when a purpose of the UGB expansion is to accommodate a public park need, the city must also consider whether land excluded under subsection (4)(a) through (c) of this rule can reasonably accommodate the park use.

(7) For purposes of subsection (4)(a), the city may consider it impracticable to provide necessary public facilities or services to the following lands:

(a) Contiguous areas of at least five acres where 75 percent or more of the land has a slope of 25 percent or greater, provided that contiguous areas 20 acres or more that are less than 25 percent slope may not be excluded under this subsection. Slope shall be measured as the increase in elevation divided by the horizontal distance at maximum ten-foot contour intervals;

(b) Land that is isolated from existing service networks by physical, topographic, or other impediments to service provision such that it is impracticable to provide necessary facilities or services to the land within the planning period. The city's determination shall be based on an evaluation of:

(A) The likely amount of development that could occur on the land within the planning period;

(B) The likely cost of facilities and services; and,

(C) Any substantial evidence collected by or presented to the city regarding how similarly situated land in the region has, or has not, developed over time.

(c) As used in this section, "impediments to service provision" may include but are not limited to:

(A) Major rivers or other water bodies that would require new bridge crossings to serve planned urban development;

(B) Topographic features such as canyons or ridges with slopes exceeding 40 percent and vertical relief of greater than 80 feet;

(C) Freeways, rail lines, or other restricted access corridors that would require new grade separated crossings to serve planned urban development;

(D) Significant scenic, natural, cultural or recreational resources on an acknowledged plan inventory and subject to protection measures under the plan or implementing regulations, or on

a published state or federal inventory, that would prohibit or substantially impede the placement or construction of necessary public facilities and services.

(8) Land may not be excluded from the preliminary study area based on a finding of impracticability that is primarily a result of existing development patterns. However, a city may forecast development capacity for such land as provided in OAR 660-024-0067(1)(d).

(9) Notwithstanding OAR 660-024-0050(4) and section (1) of this rule, except during periodic review or other legislative review of the UGB, the city may approve an application under ORS 197.610 to 197.625 for a UGB amendment to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.

Stat. Auth.: ORS 197.040, 197A.305, 197A.320 & 197.235, Statewide Planning Goal 14

Stats. Implemented: ORS 195.036, 197.015, 197.295 – 197.314, 197.610 – 197.650, 197.764, 197A.300 - 197A.325

Hist.: LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

660-024-0067

Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities

(1) A city considering a UGB amendment must decide which land to add to the UGB by evaluating all land in the study area determined under OAR 660-024-0065, as follows

(a) Beginning with the highest priority category of land described in section (2), the city must apply section (5) to determine which land in that priority category is suitable to satisfy the need deficiency determined under OAR 660-024-0050 and select for inclusion in the UGB as much of the land as necessary to satisfy the need.

(b) If the amount of suitable land in the first priority category is not sufficient to satisfy all the identified need deficiency, the city must apply section (5) to determine which land in the next priority is suitable and select for inclusion in the UGB as much of the suitable land in that priority as necessary to satisfy the need. The city must proceed in this manner until all the land need is satisfied, except as provided in OAR 660-024-0065(9).

(c) If the amount of suitable land in a particular priority category in section (2) exceeds the amount necessary to satisfy the need deficiency, the city must choose which land in that priority to include in the UGB by applying the criteria in section (7) of this rule.

(d) In evaluating the sufficiency of land to satisfy a need under this section, the city may use the factors identified in sections (5) and (6) of this rule to reduce the forecast development capacity of the land to meet the need.

(e) Land that is determined to not be suitable under section (5) of this rule to satisfy the need deficiency determined under OAR 660-024-0050 is not required to be selected for inclusion in the UGB unless its inclusion is necessary to serve other higher priority lands.

(2) Priority of Land for inclusion in a UGB:

(a) First Priority is urban reserve, exception land, and nonresource land. Lands in the study area that meet the description in paragraphs (A) through (C) of this subsection are of equal (first) priority:

(A) Land designated as an urban reserve under OAR chapter 660, division 21, in an acknowledged comprehensive plan;

(B) Land that is subject to an acknowledged exception under ORS 197.732; and

(C) Land that is nonresource land.

(b) Second Priority is marginal land: land within the study area that is designated as marginal land under ORS 197.247 (1991 Edition) in the acknowledged comprehensive plan.

(c) Third Priority is forest or farm land that is not predominantly high-value farm land: land within the study area that is designated for forest or agriculture uses in the acknowledged comprehensive plan and that is not predominantly high-value farmland as defined in ORS 195.300, or that does not consist predominantly of prime or unique soils, as determined by the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS). In selecting which lands to include to satisfy the need, the city must use the agricultural land capability classification system or the cubic foot site class system, as appropriate for the acknowledged comprehensive plan designation, to select lower capability or cubic foot site class lands first.

(d) Fourth Priority is agricultural land that is predominantly high-value farmland: land within the study area that is designated as agricultural land in an acknowledged comprehensive plan and is predominantly high-value farmland as defined in ORS 195.300. A city may not select land that is predominantly made up of prime or unique farm soils, as defined by the USDA NRCS, unless there is an insufficient amount of other land to satisfy its land need. In selecting which

lands to include to satisfy the need, the city must use the agricultural land capability classification system to select lower capability lands first.

(3) Notwithstanding section (2)(c) or (d) of this rule, land that would otherwise be excluded from a UGB may be included if:

(a) The land contains a small amount of third or fourth priority land that is not important to the commercial agricultural enterprise in the area and the land must be included in the UGB to connect a nearby and significantly larger area of land of higher priority for inclusion within the UGB; or

(b) The land contains a small amount of third or fourth priority land that is not predominantly high-value farmland or predominantly made up of prime or unique farm soils and the land is completely surrounded by land of higher priority for inclusion into the UGB.

(4) For purposes of categorizing and evaluating land pursuant to subsections (2)(c) and (d) and section (3) of this rule,

(a) Areas of land not larger than 100 acres may be grouped together and studied as a single unit of land;

(b) Areas of land larger than 100 acres that are similarly situated and have similar soils may be grouped together provided soils of lower agricultural or forest capability may not be grouped with soils of higher capability in a manner inconsistent with the intent of section (2) of this rule, which requires that higher capability resource lands shall be the last priority for inclusion in a UGB;

(c) Notwithstanding subsection (4)(a), if a city initiated the evaluation or amendment of its UGB prior to January 1, 2016, and if the analysis involves more than one lot or parcel or area within a particular priority category for which circumstances are reasonably similar, these lots, parcels and areas may be considered and evaluated as a single group;

(d) When determining whether the land is predominantly high-value farmland, or predominantly prime or unique, "predominantly" means more than 50 percent.

(5) With respect to section (1), a city must assume that vacant or partially vacant land in a particular priority category is "suitable" to satisfy a need deficiency identified in OAR 660-024-0050(4) unless it demonstrates that the land cannot satisfy the specified need based on one or more of the conditions described in subsections (a) through (g) of this section: Existing parcelization, lot sizes or development patterns of rural residential land make that land unsuitable for an identified employment need; as follows:

(A) Parcelization: the land consists primarily of parcels 2-acres or less in size, or

(B) Existing development patterns: the land cannot be reasonably redeveloped or infilled within the planning period due to the location of existing structures and infrastructure."

(b) The land would qualify for exclusion from the preliminary study area under the factors in OAR 660-024-0065(4) but the city declined to exclude it pending more detailed analysis.

(c) The land is, or will be upon inclusion in the UGB, subject to natural resources protections under Statewide Planning Goal 5 such that that no development capacity should be forecast on that land to meet the land need deficiency.

(d) With respect to needed industrial uses only, the land is over 10 percent slope, or is an existing lot or parcel that is smaller than 5 acres in size, or both. Slope shall be measured as the increase in elevation divided by the horizontal distance at maximum ten-foot contour intervals.

(e) With respect to a particular industrial use or particular public facility use described in OAR 660-024-0065(3), the land does not have, and cannot be improved to provide, one or more of the required specific site characteristics.

(f) The land is subject to a conservation easement described in ORS 271.715 that prohibits urban development.

(g) The land is committed to a use described in this subsection and the use is unlikely to be discontinued during the planning period:

(A) Public park, church, school, or cemetery, or

(B) Land within the boundary of an airport designated for airport uses, but not including land designated or zoned for residential, commercial or industrial uses in an acknowledged comprehensive plan.

(6) For vacant or partially vacant lands added to the UGB to provide for residential uses:

(a) Existing lots or parcels one acre or less may be assumed to have a development capacity of one dwelling unit per lot or parcel. Existing lots or parcels greater than one acre but less than

two acres shall be assumed to have an aggregate development capacity of two dwelling units per acre.

(b) In any subsequent review of a UGB pursuant to this division, the city may use a development assumption for land described in subsection (a) of this section for a period of up to 14 years from the date the lands were added to the UGB.

(7) Pursuant to subsection (1)(c), if the amount of suitable land in a particular priority category under section (2) exceeds the amount necessary to satisfy the need deficiency, the city must choose which land in that priority to include in the UGB by first applying the boundary location factors of Goal 14 and then applying applicable criteria in the acknowledged comprehensive plan and land use regulations acknowledged prior to initiation of the UGB evaluation or amendment. The city may not apply local comprehensive plan criteria that contradict the requirements of the boundary location factors of Goal 14. The boundary location factors are not independent criteria; when the factors are applied to compare alternative boundary locations and to determine the UGB location the city must show that it considered and balanced all the factors. The criteria in this section may not be used to select lands designated for agriculture or forest use that have higher land capability or cubic foot site class, as applicable, ahead of lands that have lower capability or cubic foot site class.

(8) The city must apply the boundary location factors of Goal 14 in coordination with service providers and state agencies, including the Oregon Department of Transportation (ODOT) with respect to Factor 2 regarding impacts on the state transportation system, and the Oregon Department of Fish and Wildlife (ODFW) and the Department of State Lands (DSL) with respect to Factor 3 regarding environmental consequences. "Coordination" includes timely notice to agencies and service providers and consideration of any recommended evaluation methodologies.

(9) In applying Goal 14 Boundary Location Factor 2 to evaluate alternative locations under section (7), the city must compare relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. For purposes of this section, the term "public facilities and services" means water, sanitary sewer, storm water management, and transportation facilities. The evaluation and comparison under Boundary Location Factor 2 must consider:

(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;

(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and

(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.

(10) The adopted findings for UGB amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis.

Stat. Auth.: ORS 197.040, 197A.305, 197A.320 & 197.235, Statewide Planning Goal 14

Stats. Implemented: ORS 195.036, 197.015, 197.295 – 197.314, 197.610 – 197.650, 197.764, 197A.300 - 197A.325

Hist.: LCDD 6-2015, f. 12-29-15, cert. ef. 1-1-16

Lettenmaier UGB Adjustment Application

APPLICATION FOR MINOR URBAN GROWTH BOUNDARY LINE
ADJUSTMENT/AMENDMENT TO THE DEPARTMENT OF COMMUNITY
DEVELOPMENT, CITY OF NEWPORT, OREGON

TERRANCE LETTENMAIER AND LAURIE WEITKAMP AND FOX N. BUSH, LLC

BACKGROUND AND OVERVIEW:

On August 9, 2013 the City of Newport's City Council approved Ordinance No. 2057 effectively de-annexing a 71.39 acre parcel known as tax lot 801 on map 12-11-05, from the City of Newport (Lettenmaier and Weitkamp property). Ord. 2057 became effective on September 18, 2013. The Lettenmaier property was then brought in to Lincoln County's jurisdiction and zoned RR-10 with a Comprehensive Plan designation of Suburban Residential (Lincoln County case file #2-LUPC-ZC-14). The Board of County Commissioners approved the final order for the zone and comprehensive plan map changes on May 20, 2015.

Adjacent to, and generally south and east of the Lettenmaier property, is a parcel owned by Fox N. Bush (tax lot 100 on map 12-11-05). This approximately 71 acre parcel is zoned Timber Conservation (TC) but has received a conditional use approval for a single residence on the property. At this time, there is only a septic approval on the Bush property and the home site has been identified. There are also a number of existing homes in the vicinity. The development pattern in this area near SE 98th Street is scattered, rural residential with some commercial timber use east of the homes along SE 98th Street (Exhibit A Development Pattern Map).

Lettenmaier desires to construct a personal residence on the Lettenmaier parcel and has identified the optimal building site as lying at the terminus of an existing roadway which will also be the future home site driveway. This roadway is near the easterly portion of the south boundary line of the Lettenmaier property and generally adjacent to the northwest corner of the Bush property (Exhibit B Plot Plan).

Owing to the contour of the Lettenmaier land and their existing roadway, it is highly desirable to use the relatively flat land on the southern edge of TL 801 for the Lettenmaier home site. The portion of this landing north of the existing property line is large enough for a small turnaround, parking area and other necessary home site improvements. The land immediately adjacent to the south, now owned by Bush, could provide room for a larger road turnaround, extra space for the sewage disposal drain field and repair area, and for an underground utility line corridor via directional boring south to SE 98th Street. Changing the zoning of the land immediately adjoining to the south would also remove the existing restriction of the county's required 50' setback from land zoned Timber Conservation for the Lettenmaier home. Septic approval has been received

from Lincoln County for the land Lettenmaier owns directly adjacent to the Bush property. Applicant understands from discussions with the County Sanitarian that the subject property owned by Bush would most probably be acceptable for additional drain field and septic repair area (Exhibit C Septic Approval). Although it is feasible for Lettenmaier to build a house at this site with current property lines and zoning, the property exchange proposed below will make home planning and construction at the site less costly and will also reduce the potential for future conflict with neighboring timber uses.

Fox N. Bush does not have an easement across Lettenmaier property to access its existing 6 acre property for future logging. This property requested by Lettenmaier is steep and has high landslide hazard (Exhibit D Geologic Hazards). It was logged in 2007 using access from what is now Lettenmaier property. The land would be very difficult to access from Bush property to the east for logging. The Bush piece is also sandwiched between Selich (map 12-11-5 TL 200) to the south and Lettenmaier to the north and west. There has been a history of problems between Selich and Bush with regards to this 6 acre piece of property because of logging concerns. Bush has no easement across Selich property for future logging. There was also a landslide as a result of the 2007 logging on the slope (Exhibit E and F 2007 and 2005 Aerial Photographs). Lettenmaier is concerned that, with the present property boundaries, future logging operations on this portion of the Bush land will create inevitable conflicts with residential uses of their own land.

The property exchange - As a result of these considerations, Bush has agreed to exchange the steep 6 acre piece for land offered by Lettenmaier to the north east (Exhibit G Hillshade). Both 6 acre pieces have Forest soils (Class IV-VI) (Exhibit H Soils Map) and are capable of growing trees to a commercial standard. Historically, this entire area was used for timber harvesting but as land in this area was traded and developed with scattered residences and small holdings, the commercial timber uses have located to less constrained situations.

A 2007 aerial photograph (Exhibit E) shows the proposed exchange area after it was logged. The current and proposed UGB boundaries are shown. The existing UGB boundary is gray and the proposed is yellow. Logging equipment is shown on the southern edge of what is now the Lettenmaier property, permissible per a temporary easement in place at the time. Timber harvesters used this landing to log by reaching down the hill. As you can see in the photograph, the Selich home is just below this logged area. Bush no longer can use the Lettenmaier or Selich properties for access, however, and Bush does not have a roadway above Selich to access its property. Clearly it will be better for Bush to log the piece offered by Lettenmaier in the exchange. This 6 acres can be accessed from the roadway on Bush-owned property to the east. It makes more practical sense for Bush to manage that piece offered by Lettenmaier in the exchange for commercial logging purposes.

The 6 acre piece offered by Lettenmaier to Bush is accessible from the south by a roadway on Bush's property allowing access for Bush's logging, and also allows access to the approved and

planned home site on Bush property (Lincoln County Case File #06-C-ADM-09). The conditional use approval for the home site was granted by the county without an easement from Lettenmaier for roadway access across their property. Legal access is required of Bush prior to final conditional use being granted. Therefore, Bush cannot legally access the home site area without the land exchange and associated and necessary land use actions including the requested urban growth boundary adjustment/amendment.

Lettenmaier initially offered a set of easements to Bush for the necessary uses of the two 6 acre pieces. Bush will not consider easements due to management and other concerns, however, but they are willing to exchange ownership of the subject portions of the properties. Therefore, the land use actions have been authorized by the owners in the boundary line adjustment agreement (Exhibit P). The agreement will expire on December 31, 2016. Weitkamp and Fox N. Bush, LLC have authorized Lettenmaier to sign and act in their stead for the land use approval process. Therefore, Lettenmaier as applicant and authorized representative is pursuing the approval of the necessary land use actions for the 6 acre exchange with all necessary speed. A legal description for each approximately 6 acre piece in the land exchange is included in the agreement.

It is also important to note that the proposed land exchange will not disadvantage future construction of the Wolf Tree Resort property as High Density Residential. The land being exchanged to Bush is more suitable to Timber Conservation logging and the land received by Lettenmaier will be part of the home site area and a utility corridor for services. All existing easements on both properties will be unaffected by the exchange and proposed UGB line adjustment (Exhibit I Easements). The land being exchanged is the same size, resulting in no net change - both within the UGB and designated as future High Density Residential or outside the UGB and designated as Forest Land.

The application request before the City of Newport is for a UGB line adjustment/amendment and for a city Comprehensive Plan designation for the land to be brought within the UGB. The applicant is also applying to Lincoln County for the companion land use requests including a UGB line adjustment/amendment, a property line adjustment, a zone change and a comprehensive plan amendment. Note that the proposed property exchange cannot be achieved by the property line adjustment alone because this would create an undersized TC zoned parcel on the Bush property and would also bring TC zoned land onto the Lettenmaier property that does not meet minimum lot size standards. Further, the property exchange can't be achieved by the property line adjustment, zone change and comprehensive plan amendment without the UGB adjustment because this would decrease the amount of TC zoned property outside the UGB boundary, counter to DLCD goals. Neither piece in the exchange is designated as wetland or within a flood zone (Exhibits J and K). However, there is a stream that runs through the 6 acre piece offered to Bush and at the southern edge of the piece offered to Lettenmaier (abutting Selich; see Exhibit B Plot Plan).

SUBMITTAL REQUIREMENTS FOR URBAN GROWTH BOUNDARY AMENDMENT:

The City of Newport Comprehensive Plan provides the authority, review procedures and required criteria for the proposed urban growth boundary adjustment/amendment. Oregon state law and administrative rules also govern and provide criteria used to guide review of proposed UGB adjustments or amendments.

Statewide Criteria for UGB -

- Hearings and notice ORS 197.610 and OAR 660, Division 18
The applicant's request is for an adjustment of the existing UGB boundary. This will be a net even exchange with no additional land added to or withdrawn from the UGB. Both City of Newport and Lincoln County are providing appropriate notice to DLCD and affected neighbors. Public hearings will be held by the city planning commission and City Council, and county planning commission and Board of County Commissioners.
- ORS 197.298
ORS 197.298 establishes priority of land to be included within the UGB using Urban Reserves. However, Newport does not have Urban Reserves as defined in OAR 660-021.
- Statewide Planning Goal 14 (OAR 660-015-0000(14))
- OAR 660 Division 24, particularly OAR 660-024-0070

Statewide planning Goal 14 (Urbanization) provides criteria used to establish and manage the UGB. Goal 14 divides the UGB amendment process in to two sections – (1) Land Need and (2) Boundary Location. Oregon's land use planning system administers UGB adjustments primarily through OAR 660-024-0070.

Land Need:

1. Land Need Factor 1 – Demonstrated need to accommodate long range urban population growth, consistent with a 20-year population forecast coordinated with affected local governments.

Land needs are determined by the local government in any UGB amendment. The City of Newport has an existing housing inventory and buildable lands inventory. The even exchange and type of land offered in this request leaves that 20-year population forecast and land needs analysis and inventory unaffected and not impacted. No revised population forecast is necessary.

2. Land Need Factor 2 – Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space.

Need Factor 2 is met through a continued demonstrated need for housing, appropriate fire safety conditions and a corridor for future public facilities over the proposed Lettenmaier land. In addition, this exchange will continue to allow the possibility of the Lettenmaier property being annexed someday with a Comprehensive Plan designation of High Density Residential.

Boundary Location:

OAR 660-024-0070 UGB Adjustments

- (1) A local government may adjust the UGB at any time to better achieve the purposes of Goal 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of this rule apply when removing land from the UGB. The requirements of Goal 14 and this division [and ORS 197.298] apply when land is added to the UGB, including land added in exchange for land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB, as specified in that statute. If a local government exchanges land inside the UGB for land outside the UGB, the applicable local government must adopt appropriate rural zoning designations for the land removed from the UGB prior to or at the time of adoption of the UGB amendment and must apply applicable location and priority provisions of OAR 660-024-0060 through 660-020-0067.*

The request will help Newport better achieve the purposes of Goal 14. The land exchange and resulting UGB adjustment will allow a single family home to be placed in the subject location with appropriate fire safety conditions such as an expanded fire truck turnaround. Part of the area for the turnaround is in the exchange portion currently owned by Bush.

The amendment will also provide a logical corridor for the supply of utilities and services from SE 98th Street. The request is still consistent with possible future development plans of the Wolf Tree Destination Resort property. Thus, the applicant is requesting a Comprehensive Plan designation of High Density Residential if this property is annexed to the city in the future.

There will be no net increase in either the residential land within the UGB or the Forest land outside the UGB as a result of this proposal. The land requested to be brought within the UGB is better situated for residential than forest uses. It will be zoned with the same density designation as the land offered in the exchange. By contrast, the land to be taken out of the UGB will be better for commercial forest management and harvesting and will cause less friction with existing and permitted residential uses in the area.

Over time, this "neighborhood" has become developed with scattered residences (Exhibit A Development Pattern Map). The intent of Goal 14 is to allow Urbanization which

includes housing. Lettenmaier wishes to place their home within the UGB boundary as a part of the land exchange but in a more suitable location.

(2) A local government may remove land from a UGB following the procedures and requirements of ORS 197.764. Alternatively, a local government may remove land from the UGB following the procedures and requirements of 197.610 to 197.650, provided it determines:

(a) The removal of land would not violate applicable statewide planning goals and rules;

No statewide planning goals and rules would be violated by this request. Each statewide planning goal is addressed below in the Local Criteria section.

(b) The UGB would provide a 20-year supply of land for estimated needs after the land is removed, or would provide roughly the same supply of buildable land as prior to the removal, taking into consideration land added to the UGB at the same time;

The buildable land supply for Newport will not be affected by this requested UGB adjustment. The Residential supply will be unchanged by this net exchange.

(c) Public facilities agreements adopted under ORS 195.020 do not intend to provide for urban services on the subject land unless the public facilities provider agrees to removal of the land from the UGB and concurrent modification of the agreement;

Not applicable.

(d) Removal of the land does not preclude the efficient provision of urban services to any other buildable land that remains inside the UGB; and

The land to be removed from the UGB is further east, more remote and better suited to commercial timber management. The piece is easily accessed from Bush's TC-zoned land. This forest land is removed from urban services. As such, it does not preclude the efficient provision of urban services to any other buildable land that remains inside the UGB. See the Development Pattern Map (Exhibit A).

(e) The land removed from the UGB is planned and zoned for rural use consistent with all applicable laws.

The land to be removed from the UGB will be planned and zoned for forest use consistent with Lincoln County's Comprehensive Plan and Timber Conservation zone.

(3) Notwithstanding sections (1) and (2) of this rule, a local government considering an exchange of land may rely on the land needs analysis that provided a basis for its current acknowledged plan, rather than adopting a new need analysis, provided:

(a) The amount of buildable land added to the UGB to meet:

(A) A specific type of residential need is substantially equivalent to the amount of buildable residential land removed, or

The land exchange is equivalent, netting zero, and will not disadvantage the High Density Residential inventory within the city which was identified as the Wolf Tree Resort. The slope and terrain are generally the same with the primary feature of utility suitability and proximity being superior for residences (Exhibit G Hillshade and Exhibit L Aerial Contours).

(B) The amount of employment land added to the UGB to meet an employment need is substantially equivalent to the amount of employment land removed, and

Employment land will be unaffected by the exchange.

(b) The local government must apply comprehensive plan designations and, if applicable, urban zoning to the land added to the UGB, such that the land added is designated:

(A) For the same residential uses and at the same housing density as the land removed from the UGB, or

The applicant is requesting that the same High Density Residential designation be applied to the land brought in to the UGB in the exchange. The property size remains at 6 acres so the density will be unaffected.

(B) For the same employment uses as allowed on the land removed from the UGB, or

(C) If the land exchange is intended to provide for a particular industrial use that requires specific site characteristics, only land zoned for commercial or industrial use may be removed, and the land added must be zoned for the particular industrial use and meet other applicable requirements of ORS 197A.320(6).

Not applicable.

APPLICABLE REQUIREMENTS OF OREGON'S STATEWIDE PLANNING GOALS

Goal 1. Citizen Involvement – The city will follow all appropriate and applicable procedures as required in city ordinances, including notification of affected property owners, legal notice of public hearings and hearings with the Newport Planning Commission and City Council.

Goal 2. Land use planning - All necessary planning processes and land use hearings will be noticed and scheduled. The review of the application and the land use decision will be based on facts and findings. No exception to Goal 2 is necessary.

Goal 3. Agricultural Lands and Goal 4 Forest Land – OAR 660-024-0020(b) states that Goals 3 and 4 are not applicable when amending an urban growth boundary.

Goal 5. Open Spaces, Scenic and Historic Areas & Natural Resources – Statewide Planning Goal 5 requires local governments such as Newport to inventory and protect natural resources and scenic and historic areas. The city has previously reviewed this area in its land inventory and found no significant ESEE resources in the affected area.

Goal 6. Air, Water and Land Resources Quality – Newport Comprehensive Plan complies with the Statewide Planning Goal 6 requirements by reviewing and implementing air, water and land resource quality policies consistent with state rules and laws.

Goal 7. Areas Subject to Natural Disasters and Hazards – The subject parcel exchange does have portions that are within Natural Hazard areas according to the DOGAMI map (Exhibit D). This area will only be used for the underground location of utilities installed by directional boring – not for logging or structures. This will minimize activity in the landslide area, protect the Selich home and still provide a corridor for utility access to the future High Density Residential Lettenmaier property.

Goal 8. Recreation Needs – Not applicable. The request does not include recreation lands or facilities.

Goal 9. Economy of the State – Not applicable. There is no employment land affected in the exchange.

Goal 10. Housing – This property exchange nets zero. Newport’s Buildable Lands Inventory will be unaffected by this exchange. There will still be 6 acres suitable for High Density Residential. As a result, Newport’s Goal 10 housing assessment and 20-year inventory for residential housing will be unchanged.

Goal 11. Public Facilities and Services – The City of Newport has addressed Goal 11 in its Comprehensive Plan and Water System Master Plan (2008). Adequate public facilities exist to serve this currently low density area for now. If this area is annexed there will be sufficient facilities to service the area.

Goal 12. Transportation – This land exchange does not affect employment land. There is also no increase in requested housing density on the affected land in the adjustment area. Therefore, there is no increased traffic impact as a result of this request. The Transportation Planning Rule will not be required to come in to play (Per OAR 660-0024-0020(d)). In addition, no traffic impact study will be required according to the Newport City Code Chapter 14.45.

Goal 13. Energy – Statewide Planning Goal 13 requires land uses to be managed and controlled on land within the subject area so as to maximize conservation of all energy resources. This has been addressed above in the Goal 5 ESEE discussion and as part of the Goal 14 – Urbanization review.

Goal 14. Urbanization - Goal 14 has been complied with as discussed in the prior Goal 14 Urbanization section of this application request.

Goals 15- 19. These Goals pertain to the Willamette Greenway and Coastal Resource Boundaries. They are not applicable to the UGB adjustment in this review. Per OAR 660-0024-0020 (e-g).

City of Newport Criteria-

1. *A current 18 x 24" Lincoln County Assessor tax map is included showing the area to be included in and withdrawn from the UGB and the notification area. The notification area is all properties within 300 feet of the subject property. (Exhibit M.)*
2. *A list of names and addresses of property owners, as shown in the records of the Lincoln County Assessor, within the 300' notification area described above (Exhibit N).*
3. Both City Community Development Director Derrick Tokos and Lincoln County Planning Director Onno Husing have found that the requested change is a minor amendment (Exhibit O Email).
4. *Written findings of fact addressing the following criteria from the City of Newport Comprehensive Plan:*
 - a) *There exists a demonstrated need for the change to accommodate unpredicted population trends, to satisfy urban housing needs, or to assure adequate employment opportunities.*

The requested change will accommodate a demonstrated need to meet current housing needs and population trends. If at some future time the subject property is annexed to the city it will be annexed with a designation of High Density Residential, since it was formerly part of the Wolf Tree Destination Resort planned development. Upon annexation, the property would have zoning and comprehensive plan designations consistent with high density urban housing needs. At this time, there is no possibility of high density urban utilities or facilities accessing the property. It would be in the public interest for the UGB re-alignment and adjustment to be approved so that a home with associated facilities and services could be built.

- b) *An orderly and economic provision of key urban facilities or services.*

If this request is approved, key utilities, facilities and services could be provided to the Lettenmaier home and property. The 71.39 acre parcel is zoned RR-10 in Lincoln County and is low density residential at this time. Public and private utilities including power, internet and television services could be provided in an orderly and efficient manner. In addition, the exchange will allow the Lettenmaier home site to provide a full turnaround for fire and safety vehicles.

- c) *Maximum efficiency of land uses within the current urbanizable area.*

This property exchange and re-alignment of the UGB will help maximize the efficiency of land uses within the current urbanizable area. A home site will be able to access

utilities from SE 98th Street. The proposed UGB alignment in this area will also make more sense topographically. Exhibits G and L depict topography using hillshade and contours, respectively, both from LIDAR surveys. Both maps clearly show that the relatively steep property Lettenmaier is receiving from Bush is difficult to log and to access for logging. A 2007 aerial photograph shows the area of a post-logging slide down to the stream and abutting Selich property (Exhibit E).

The Development Pattern map (Exhibit A) indicates an important point relative to maximizing efficiency of land use uses within the current urbanizable area. The proposed line allows for utilities to access from SE 98th Street to Lettenmaier property. Utilities can be directionally bored and placed underground in this area. If in future Lettenmaier property is annexed, there will then be access to utilities from SE 98th Street across this exchange area.

d) *Environmental, energy, economic and social consequences.*

The 6 acre piece to be provided to Lettenmaier is currently zoned TC but is steep and difficult to access for logging. More energy would be necessary to log this land if Bush retained it. Bush may have to either build a road traversing steep slopes or do future logging with helicopters, either of which would have higher environmental, energy and economic costs. Future logging would be best done using Bush's own property and roadway for access. The logging will also be done away from neighbors and in an area that is truly used for forest purposes.

The exchange will also allow a home to be built on Lettenmaier property that will have utilities accessed from SE 98th Street and meet necessary fire safety site standards. It will also protect a future potential for the remaining land in this ownership to receive services.

e) *Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI being the lowest priority.*

This is not applicable. There is no agricultural land affected by this realignment of the UGB boundary. The Timber Conservation land affected is Class IV-VI and 6 acres will still be retained in the exchange.

f) *Compatibility of the proposed urban uses with nearby agricultural activities.*

There are no known nearby agricultural activities.

g) *Need for housing, employment opportunities and livability.*

This request will allow housing and livability in the area. The development pattern in the area has been set for some time. The Wolf Tree Destination Resort is not going forward. The applicant is requesting that the UGB amendment be approved so that a home can be built, utilities provided and that the RR-10 property within the UGB made livable. The

amendment will protect commercial harvesting employment opportunities on the TC land owned by Bush by providing access and less friction between TC and residential ownerships. It will also allow the Lettenmaier home to be more easily built with the required 50 foot setback from the TC zone.

- h) *Statewide Planning Goal 2 exception criteria.* - Addressed above. No exception is necessary.

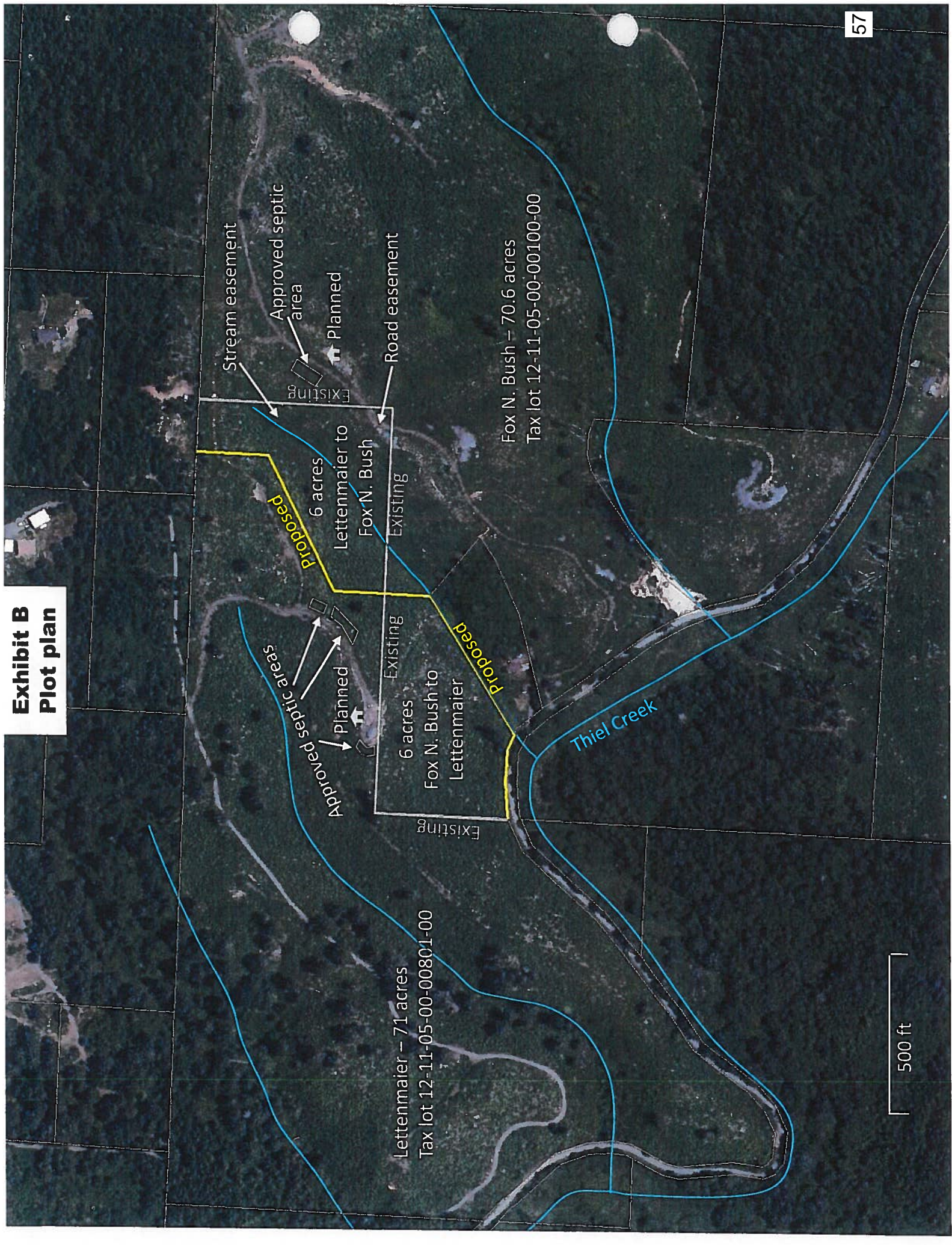
Exhibits-

- A. Development Pattern Map
- B. Plot Plan
- C. Septic Site Approval for Lettenmaier Property
- D. Geological Hazard Map (DOGAMI)
- E. 2007 Aerial Photograph
- F. 2005 Aerial Photograph
- G. Hillshade Map
- H. Soil Classifications Map
- I. Summary of Easements on Subject Properties
- J. Lincoln County Wetlands Map
- K. Lincoln County Flood Zone Map
- L. Aerial Contours Map
- M. 18 x 24" Lincoln County Maps Showing Area to be Adjusted in UGB and 300' Notice Area from Subject Properties.
- N. List of Names and Addresses of Property Owners within Notice Area as Shown in Lincoln County's Assessor's Records.
- O. Written Email Memo from Derrick Tokos, Newport Community Planning Director and Onno Husing, Lincoln County Director of Planning and Development, stating that the proposed UGB Boundary Amendment is a Minor Change.
- P. Boundary Line Adjustment Exchange Agreement, dated March 6, 2016 (Lettenmaier, Weitkamp, Fox N. Bush, LLC)
- Q. Preliminary Title Reports for Issuing Title Insurance



Exhibit A
Development pattern map

Exhibit B
Plot plan



500 ft



REPORT OF EVALUATION FOR ONE LOT

ON-SITE SEWAGE SYSTEMS

(Technical Report - Not a Permit)

R # 519-15-001347

| | | | | |
|-------------------------|-----------|--------------|---------------------|-----------------|
| <u>12</u> | <u>11</u> | <u>05</u> | <u>801</u> | <u>Lincoln</u> |
| (Township) | (Range) | (Section) | (Tax Lot/Acct. No.) | (County) |
| <u>Subdivision Name</u> | | | | <u>71 Acres</u> |
| | | (Lot Number) | (Block No.) | (Lot Size) |

The site has been found suitable for installation of the following kind(s) of on-site sewage disposal systems, with the limitations and additional requirements indicated:

Approved Area #2 & #3

Standard Distribution System sized at 75 lineal feet per 150 gallons/day design sewage flow. Maximum trench depth = 36 inches. Minimum trench depth = 24 inches. The design flow = 450 gallons/day.

Approved Area #1

Standard Distribution System sized at 125 lineal feet per 150 gallons/day design sewage flow. Maximum trench depth = 30 inches. Minimum trench depth = 24 inches. The design flow = 450 gallons/day.

All current DEQ setback requirements apply including 100' to any wells, springs or surface public waters; 50' to any intermittent streams; 25' to any cutbanks or escarpments; 20' to any road ditches; 10' to any waterlines, underground utility lines, foundation lines, easements, or property lines. Drainfields may need to be staked out prior to issuing an install permit.

PLOT PLAN OF APPROVABLE AREA:

See Attached Plot Map for specific
Approval Areas

Any alteration of the natural conditions in the area approved for the on-site system or replacement area may void this approval. This approval is given on the basis that the lot or parcel described above will not be further partitioned or subdivided and that conditions on subject or adjacent properties have not been altered in any manner which would prohibit issuance of a permit in accordance with O.R.S. 454.605 through 454.755 and Administrative Rules of the Environmental Quality Commission. Any such subdivision, partitioning or alteration may void this report.

WARNING:

This document is a technical report for on-site sewage disposal only. It may be converted to a permit only if, at the time of application, the parcel has been found to be compatible with applicable LCDC-acknowledged local comprehensive land use plans and implementing measures or the Statewide Goals. The Statement of Compatibility may be made on the attached form or its equivalent. Authorized Agent approval is required before a construction permit can be issued.

This report is valid until an on-site sewage system is installed pursuant to a construction permit obtained from Lincoln County, or until earlier cancellation, pursuant to Commission rules, with written notice thereof by the Department of Environmental Quality to the owners according to Department records or the County tax records. Subject to the stated conditions, this report runs with the land and will automatically benefit subsequent owners.

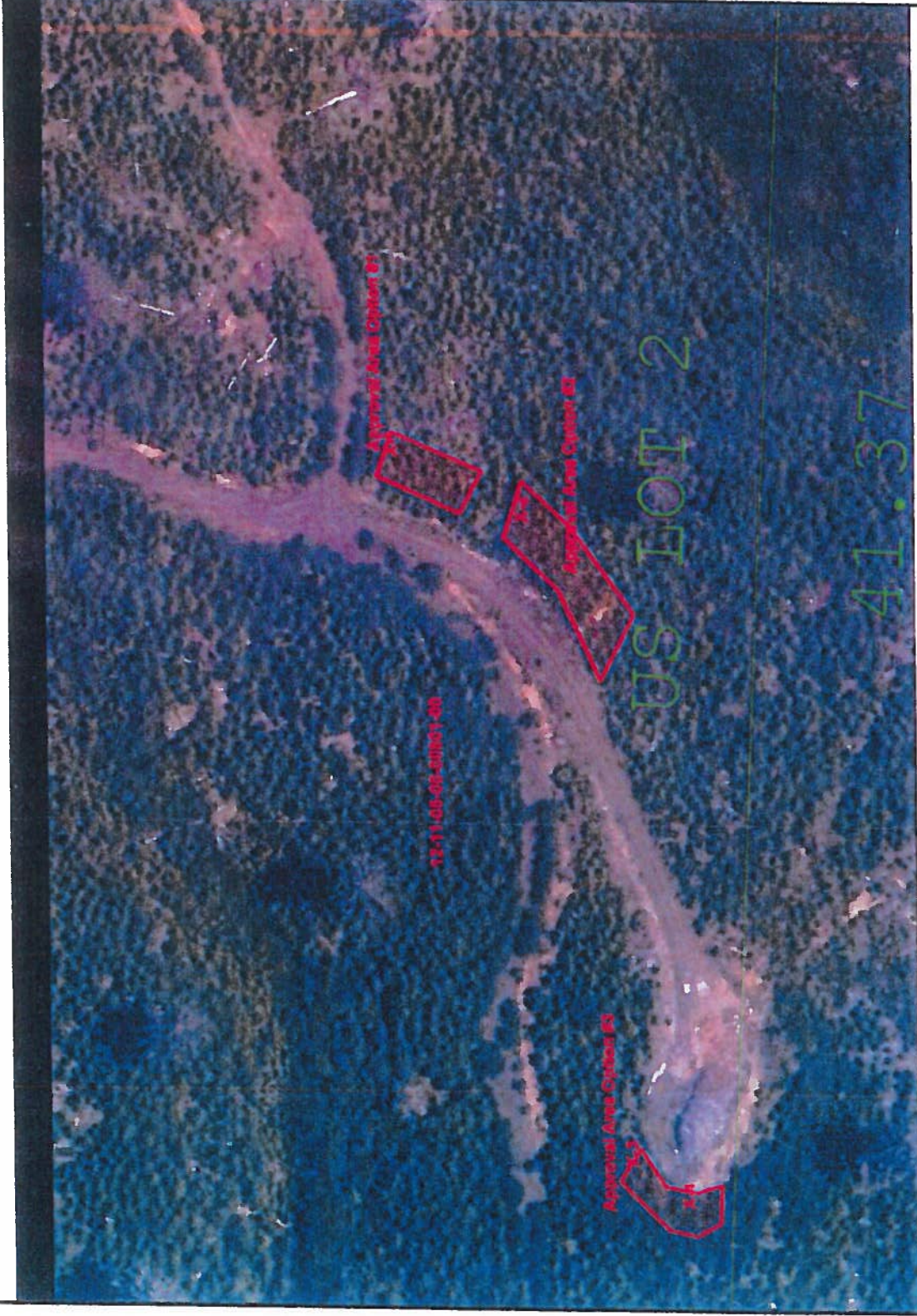
SANITARIAN:

DATE: 11/17/2015

On-Site Waste Mgmt

Exhibit C - Septic Site Approval for Lettenmaier Property

Plot map approval areas for 12-11-05-00-00801

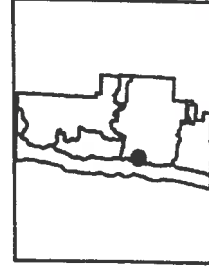


Lincoln County
Geographic Info System

Roads
County
State
Street
Tallot
City
Tallot
Tallot text

Approval Area #1
375' of drainfield
required 1-4 BR

Approval Area #2 & 3
225' of drainfield
required 1-4 BR



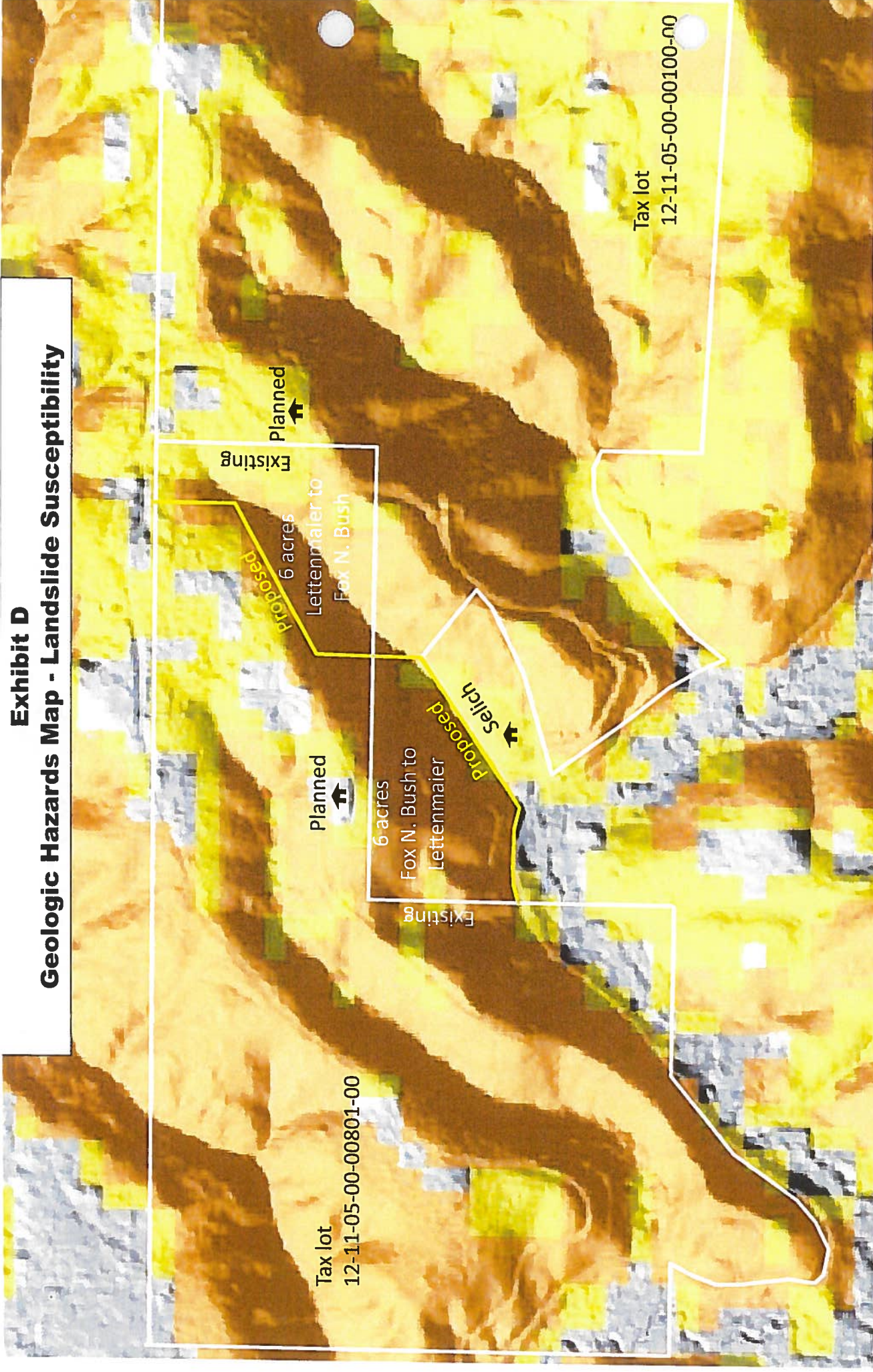
11/17/2015



1 in. = 117 ft

This product is for informational purposes only. Use for any other purpose is entirely at the risk of the user. Users of this product should review or consult the primary data and information sources to ascertain the usability of the information.

Exhibit D **Geologic Hazards Map - Landslide Susceptibility**



Landslide Hazard

| | |
|--|---------------------------------|
| | Low – Landsliding unlikely |
| | Moderate – Landsliding possible |
| | High – Landsliding likely |
| | Very high – Existing landslides |

Landslide Susceptibility 60

Based on soil, rock type, and historical landslides. To be used for regional planning.

From DOGAMI
 Statewide Geohazards Viewer

Note: Subject properties both outside of coastal erosion hazard zones.

Exhibit E
2007 aerial photograph

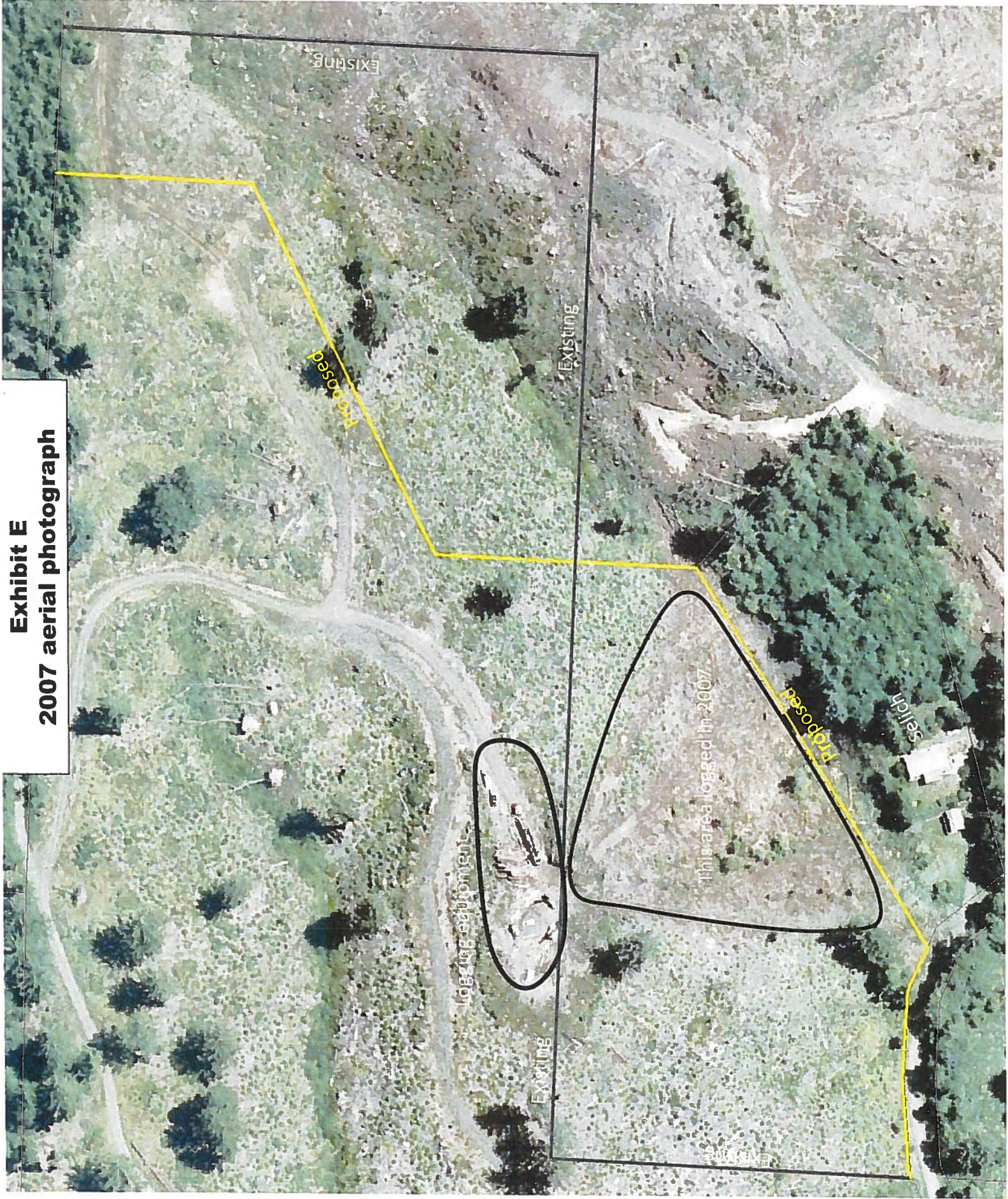


Exhibit F
2005 aerial photograph



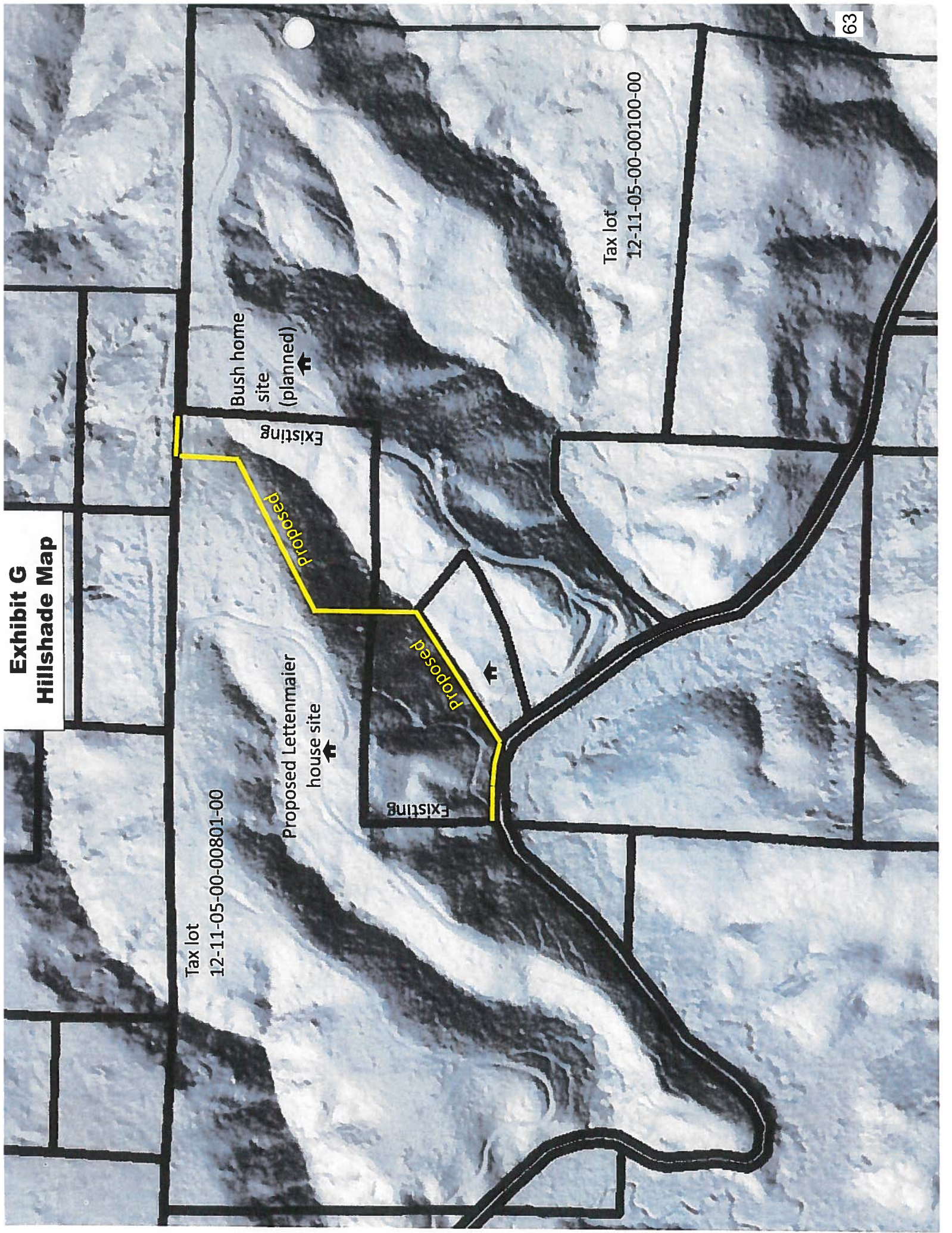


Exhibit G
Hillshade Map

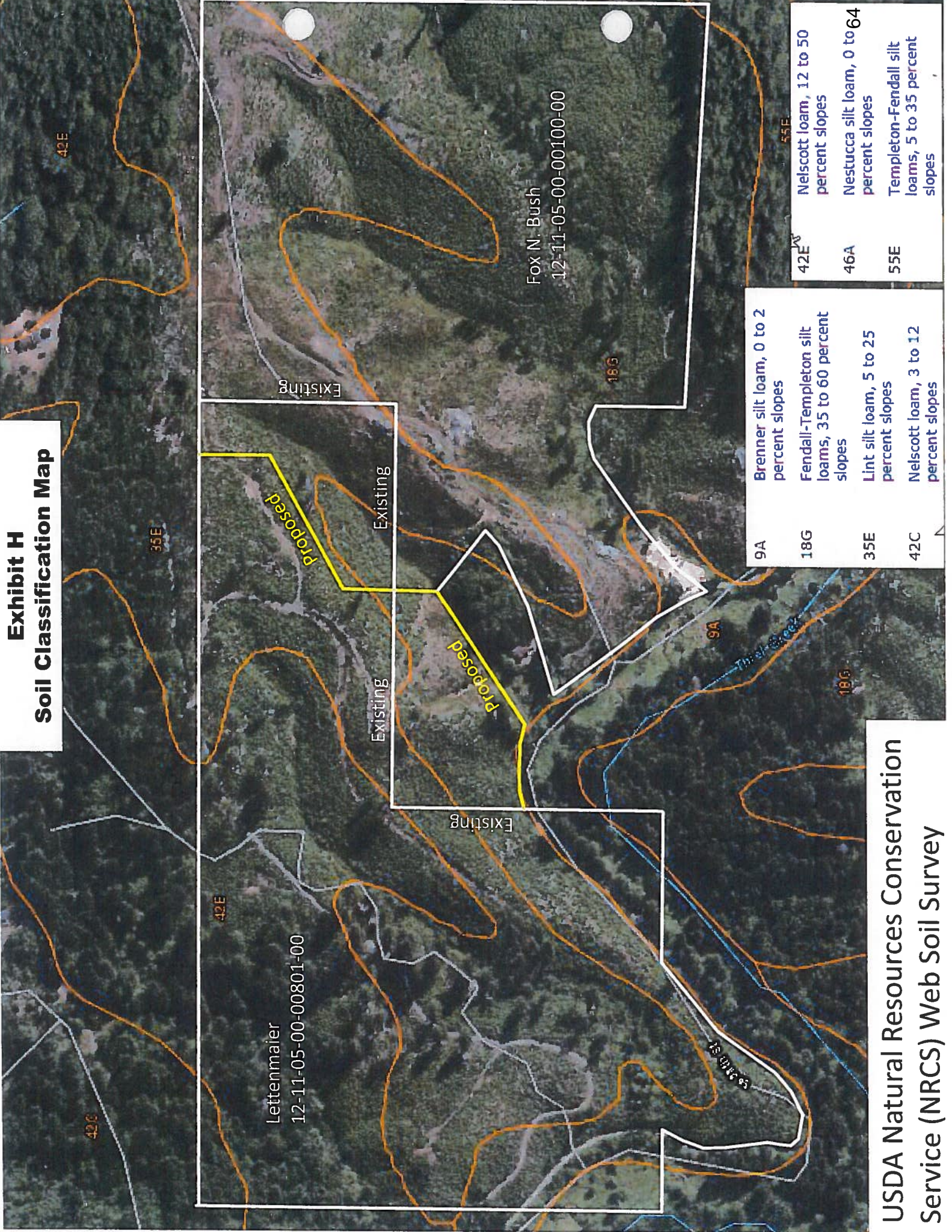


Exhibit H
Soil Classification Map

Lettenmaier
12-11-05-00-00801-00

Fox N. Bush
12-11-05-00-00100-00

| | |
|-----|---|
| 9A | Brenner silt loam, 0 to 2 percent slopes |
| 18G | Fendall-Templeton silt loams, 35 to 60 percent slopes |
| 35E | Lint silt loam, 5 to 25 percent slopes |
| 42C | Nelscott loam, 3 to 12 percent slopes |

| | |
|-----|--|
| 42E | Nelscott loam, 12 to 50 percent slopes |
| 46A | Nestucca silt loam, 0 to 64 percent slopes |
| 55E | Templeton-Fendall silt loams, 5 to 35 percent slopes |

Exhibit I - Summary of Easements on Subject Properties

Easements that apply to both 6 acre parcels to be exchanged:

1. Right of Way Agreement, recorded February 22, 1995 in Volume 295, Page 955, Microfilm Records, between Boise Cascade Corporation and Simpson Timber Company.

Modification and/or amendment:

Recording Information: July 31, 2002 in Volume 454, Page 2474, Film Records.

A road easement across Property to other timber properties, for timber management and harvesting purposes only, using any road or land on Property. This agreement expires 10 years after any portion of the agreement area is conveyed to a third party for any reason. The 2002 modification does not affect the expiration clause.

Easements that apply to proposed Lettenmaier to Fox N. Bush 6 acres:

1. An easement for right to take water for domestic purposes from that certain stream in favor of adjacent property by instrument, recorded April 19, 1955 in Book 170, page 301, Film Records.

Easement for neighbor to take water from stream that first runs through Property; see Exhibit B Plot Plan for location of stream.

2. Easement.

Recorded: February 5, 2007 as Fee No. 200701949 and Re-Recorded February 23, 2007 as Fee No. 200702851, Records of Lincoln County, Oregon

Road easement in favor of Green Diamond Resource Company – see Exhibit B Plot Plan for location of the road.

3. Easement.

Recorded: November 6, 2008 as Fee No. 2008-12867, Records of Lincoln County, Oregon

A road easement across Property to other timber properties, for timber management and harvesting purposes only, for all existing roads on the present Lettenmaier property.

4. Utility easement agreement.

Recorded: September 11, 2013 as Document No. 2013-09149, Records of Lincoln County, Oregon

A utility easement agreement in favor of Steel String, Inc. that allows utilities to run across present Lettenmaier property to Steel String property in future. Compensation will be negotiated if utilities are not underground or not placed adjacent to an existing road.

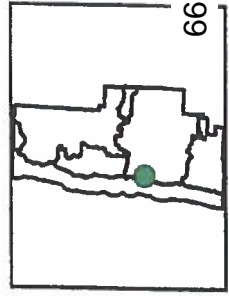
Easements that apply to proposed Fox N. Bush to Lettenmaier 6 acres:

1. Reservations.

Recorded: August 28, 2006 as Document No. 200613383

Reservation of oil, gas, and other minerals.

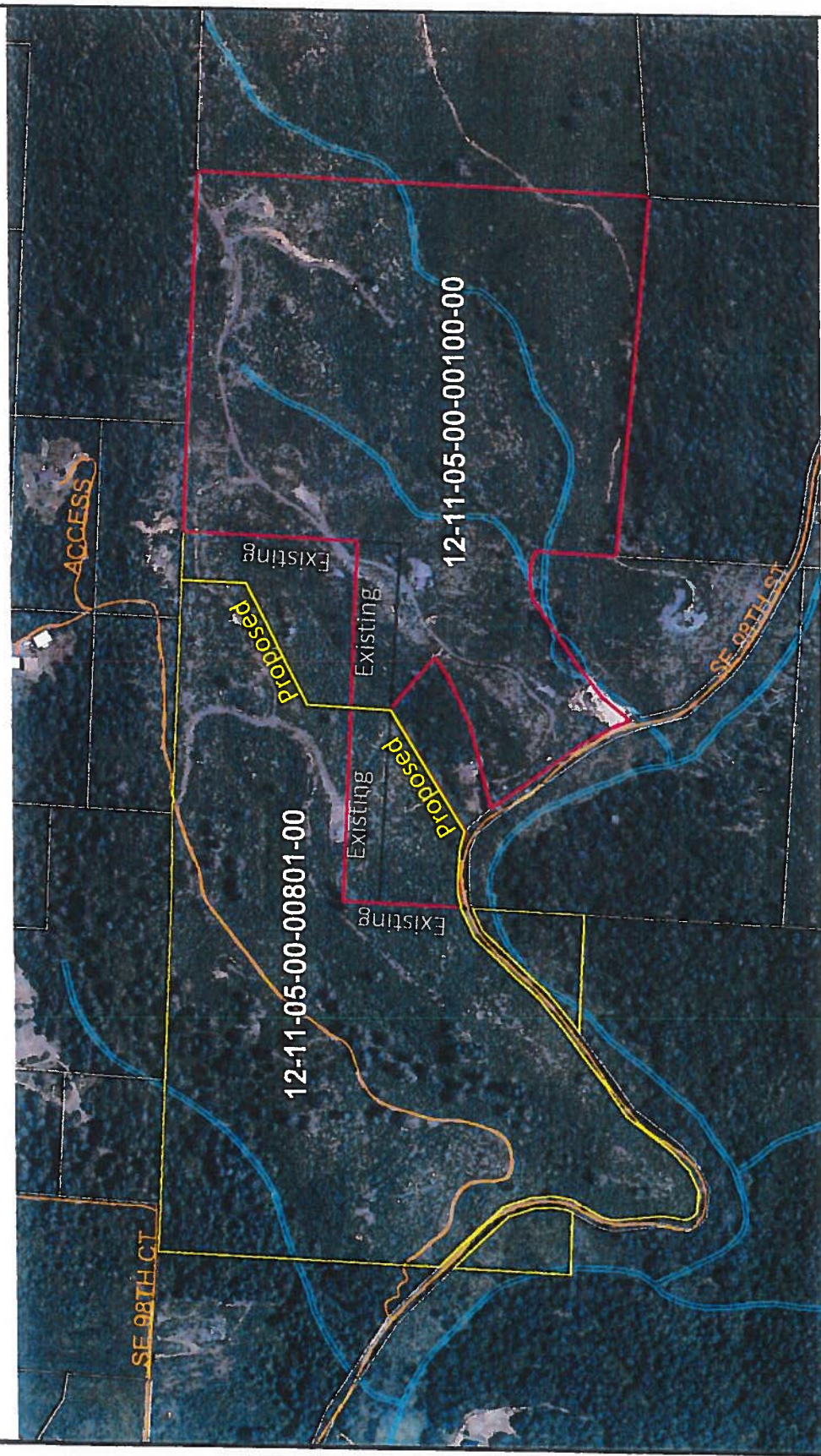
- Roads
- County
- Shore2
- State highways
- Streets
- Taxlot
- City
- Taxlot
- Taxlot-white
- Wetlands - OR



5/3/2016
N

1 in. = 800 ft.

Exhibit J Lincoln County Wetlands Map

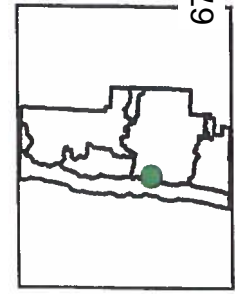
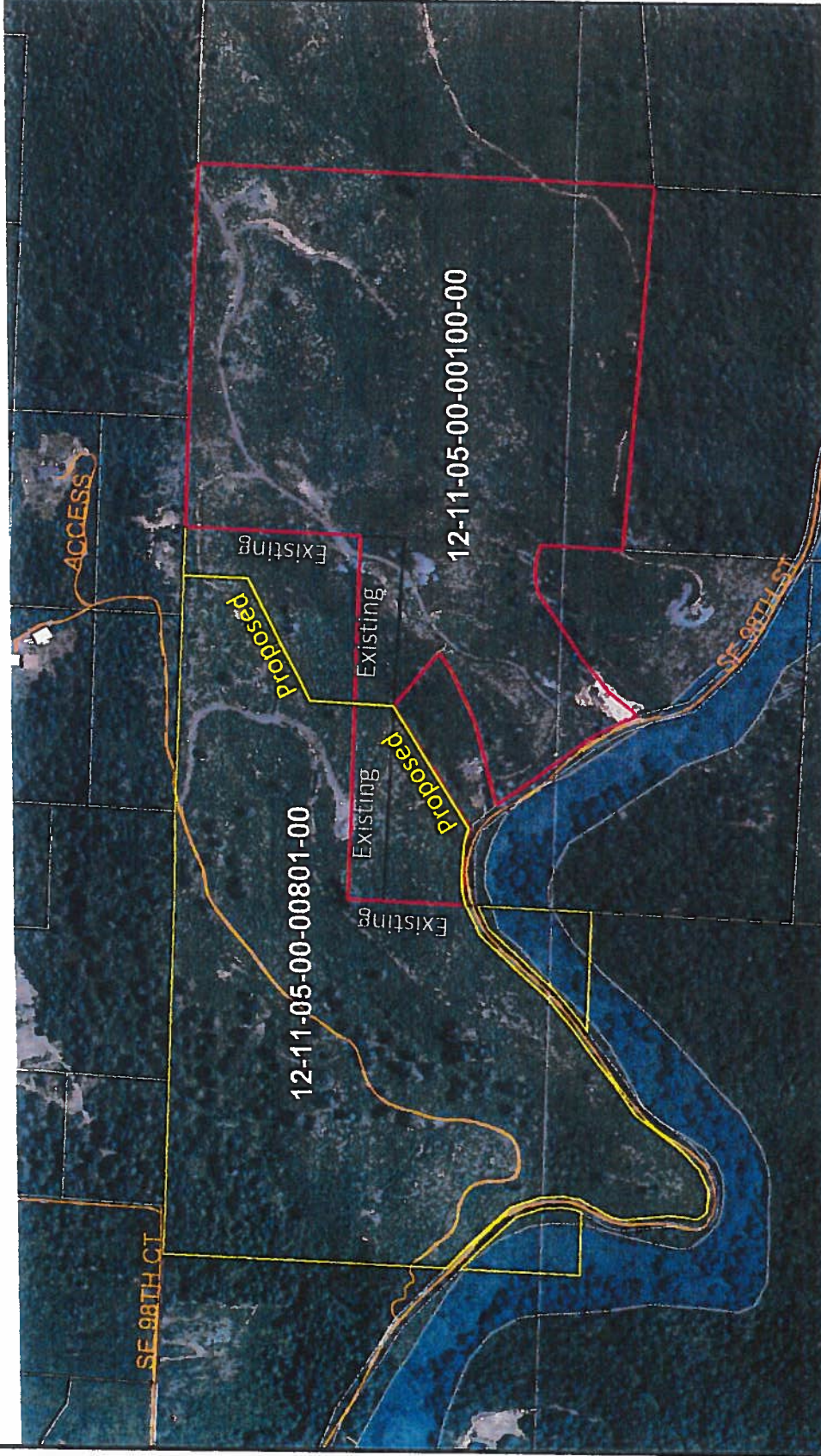


Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Exhibit K Lincoln County Flood Zone Map

Lincoln County
Geographic Info System

Flood Zones
flood elevations
A
flood zone panels
LOMAs
Roads
County
Shore2
State highways
Streets
Trailot
City
Tator
Tator-white



67



5/3/2016

1 in. = 800 ft

Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



Exhibit L
Aerial Contours Map

Map

Exhibit M - 300 ft Notice Area from Subject Properties (Also see attached 18 x 24" assessor's maps)



Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.

Exhibit N

List of Names and Addresses of Property Owners within Notice Area as Shown in Lincoln County Assessor's Records

| Map Taxlot | Owner | Mailing Address |
|--|---|---|
| 11-11-32-00-01601-00 | Senn, James A & Jong Soon | 8450 SW Marine View St South Beach, OR 97366 |
| 11-11-32-D0-00600-00 11-11-32-D0-00601-00 | Ferris, Willard Stuart & Peter K & Katherine | 415 SE 98 th Ct South Beach, OR 97366 |
| 11-11-32-D0-01100-00 | Pederson, Joel W | 16151 Shellcracker Rd Jacksonville, FL 32226 |
| 11-11-32-D0-01200-00 | Klay, Jonathan Mark & Fredrika | 20143 47 th Ave NE Lake Forest Park, WA 98155 |
| 11-11-33-00-00400-00 | Nestucca Forests LLC Attn: Hancock Forest Management | 17700 Se Mill Plain Blvd, Ste 180 Vancouver, WA 98683 |
| 12-11-00-00-02800-00 12-11-05-00-00800-00 12-11-05-00-00803-00 12-11-05-00-01101-00 | Steel String Inc. | 2712 SE 20th Ave Portland, OR 97202 |
| 12-11-05-00-00100-00 12-11-00-00-02900-00 | Fox N Bush LLC Fox John & Bush Jerald L | 777 NE 2nd St, Ste F Corvallis, OR 97330 |
| 12-11-05-00-00200-00 | Selich Jack M & Judith N | PO Box 358 South Beach, OR 97366 |
| 12-11-05-00-00300-00 | Moore Mike R & Barbara | 9677 SE Cedar St South Beach, OR 97366 |
| 12-11-05-00-00400-00 | Bush Jerald L & Carol A | 24402 Maxfield Creek Rd Philomath, OR 97370 |
| 12-11-05-00-00801-00 | Lettenmaier Terry & Weitkamp Laurie | PO Box 550 South Beach, OR 97366 |

Exhibit O

From: Onno Husing [mailto:ohusing@co.lincoln.or.us]
Sent: Monday, April 25, 2016 12:50 PM
To: Derrick Tokos <D.Tokos@newportoregon.gov>
Cc: Terry Lettenmaier <lett@peak.org>; Dawn Pavitt <dawn@pavittlanduse.com>; Chri Minor <cminor@newportlaw.com>
Subject: Re: Concurrence on Minor UGB Amendment

Yes it is a minor amendment and our colleagues at DLCD concur too

Onno

--

Onno Husing
 Director, Lincoln County Dept of Planning & Development.
 541-265-4192
 541-265-6945 Fax

On Sun, Apr 24, 2016 at 1:18 PM, Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

I concur that this proposal is a minor amendment to the Urban Growth Boundary.

Derrick I. Tokos, AICP

Community Development Director
 City of Newport
 169 SW Coast Highway
 Newport, OR 97365
 ph: [541.574.0626](tel:541.574.0626) fax: [541.574.0644](tel:541.574.0644)
d.tokos@newportoregon.gov

From: Terry Lettenmaier [mailto:lett@peak.org]
Sent: Sunday, April 24, 2016 8:13 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>; Onno Husing <ohusing@co.lincoln.or.us>
Cc: 'Dawn Pavitt' <dawn@pavittlanduse.com>; Chri Minor <cminor@newportlaw.com>
Subject: Concurrence on Minor UGB Amendment

Derrick and Onno:

For our UGB amendment application to the city, we need a determination as to whether the requested change is a major or minor UGB amendment. We believe that this will be a minor UGB amendment, and I believe that in previous discussions both of you have agreed. Can the

Exhibit O

two of you provide email responses making statements to that effect, to include with our application to the city?

To refresh your memory, this UGB amendment will be necessary for our proposed 6 acre property exchange with Fox N. Bush. I have attached a map showing the location of this proposed property exchange. As we've previously discussed, the current UGB boundary is along the "existing" line and we will need to amend it to follow the "proposed" line in order to do this exchange.

Thank you,

Terry Lettenmaier

Exhibit P - Boundary Line Adjustment / Exchange Agreement

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BOUNDARY LINE ADJUSTMENT / EXCHANGE AGREEMENT

DATED: Effective as of 5-6, 2016
(subject to execution by both properties)

THIS AGREEMENT, by and between Fox N. Bush, LLC, (hereafter FNB), and Terry Lettenmaier (hereafter Lettenmaier).

WITNESSETH:

RECITALS:

1. FNB and Lettenmaier are the owners of large, adjacent parcels of land. The parties desire to reconfigure a portion of their common boundary by means of a property line adjustment proceeding under ORS Chapter 92, and will accomplish the property line adjustment by exchanging two parcels of approximately 6 acres each, as described in the Exhibits mentioned in Recital 3, below.

2. Attached hereto and by this reference made a part hereof is the draft of a narrative, intended to be attached to and made a part of applications to be submitted to Lincoln County and to the City of Newport to obtain approval of certain land use actions believed necessary to obtain approval of the property line adjustment, including but not limited to adjustment of the urban growth boundary of the City of Newport, a zoning change for each parcel, change of the comprehensive plan designation for each parcel, as well as approval of the property line adjustment itself.

3. Attached hereto are Exhibits A and B, setting forth the descriptions, by metes and bounds, of each of the six acre parcels to be exchanged, as determined by a licensed surveyor. The six acre parcel to be transferred from FNB to Lettenmaier is identified as Parcel A, in Exhibit A, and the six acre parcel to be transferred from Lettenmaier to FNB is identified as Parcel B, in Exhibit B. Also attached hereto is a map depicting the relationship of Parcels A & B, and the proposed new boundary, and preliminary title reports for each of the parcels to be exchanged. The attachments are, by this reference, made a part of this agreement.

NOW, THEREFORE, each in consideration of the other, the parties agree as follows:

1. FNB authorizes Lettenmaier to make application for, pursue and complete the land use actions as described in the attached narrative statement, or as subsequently may be determined necessary or convenient to the completion of this exchange and property line adjustment, including actions applicable to the Lettenmaier Parcel and to the Fox N. Bush Parcel, and FNB appoints Lettenmaier as its attorney in fact with authority to carry out the foregoing on behalf of FNB and Lettenmaier, including but not limited to preparation, execution and

submission of applications for such land use actions and appearance at hearings and other proceedings related thereto, together with the right and authority to modify the manner of proceeding and the applications as may be necessary or convenient to obtaining ultimate approval of the property line adjustment. The undersigned, Laurie Weitkamp, his spouse, likewise grants to Lettenmaier a power of attorney with respect to the Lettenmaier Parcel, for such purpose, and agrees to cooperate in the pursuit of the approvals and to join in the conveyance to be made by Lettenmaier to FNB, at closing, as contemplated herein, subject to the ability of the parties to complete the transaction, but Weitkamp does not otherwise assume any personal obligation hereunder.

2. At such time as the parties shall obtain approval of the property line adjustment and the other land use actions necessary for such approval, and within 30 days after such approval becomes final, the parties agree that each shall make, execute and deliver to the other, through escrow, a warranty deed, complying with the requirements for a property line adjustment deed, conveying to the other party the property which is to be exchanged, as required to complete the property line adjustment. Lettenmaier will provide such deeds in appropriate form, at no cost to FNB.

3. Lettenmaier agrees to pay the filing fees and bear the other costs incurred by Lettenmaier in obtaining the land use approvals, premiums for title insurance for each exchanged parcel, escrow fee, and cost of recording deeds.

4. Lettenmaier and FNB warrant and covenant, each to the other, that the respective parcels shall be conveyed free and clear of encumbrances, except exceptions 1-16 and 18-21, as set forth in the preliminary title report for Parcel A (FNB to Lettenmaier), and exceptions 1-30 in the preliminary report for Parcel B (Lettenmaier to FNB). Each party shall be responsible to pay any taxes on the parcel which such party is conveying, with taxes to be prorated as of the date of closing. The deeds of conveyance shall be subject only to the foregoing exceptions.

5. The transaction shall be closed in escrow at Western Title and Escrow Company, Newport office, not later than December 31, 2016, and each party shall receive a policy of title insurance, subject to the exceptions mentioned above and to the standard printed exceptions customarily included in such a policy. Lettenmaier shall bear the cost of the escrow fee, title insurance and the recording of the property line adjustment/exchange deeds. In the event the transaction cannot be closed by the date set forth above, the transaction thereupon shall be terminated, no land use approvals shall become final, and neither party shall have liability to the other, unless such failure to close shall be attributable to the failure or refusal of such party to cooperate in the closing of the transaction and perform as provided in this Agreement. In the event that the necessary land use actions and approvals have not been obtained by the proposed closing date, but proceedings are still pending, if in the reasonable opinion of Lettenmaier's counsel it is probable that such approvals will be obtained, the parties will in good faith extend the closing date for a reasonable period of time.

6. The only conditions to the closing of the transaction shall be that (1) each party

shall tender into escrow the deed and any closing statement or other documents required by the title company, together with any funds as may be required for closing, (2) that the necessary land use approvals shall have been obtained, and (3) that the condition of title shall be as set forth above.

7. Each party acquires the property of the other, "AS IS," but each party represents to the other, with respect to the Parcel to be conveyed by such party, that such party has no knowledge of any environmental contamination, that there are no leases, tenancies or rental agreements affecting such property, that there are no claims, actions, suits or proceedings respecting such property, and that each party has no actual knowledge of any hazard, adverse right, title, interest, easement, claim or encroachment affecting such property, except matters as set forth in the title reports mentioned above.

8. Each party shall be entitled to possession immediately upon closing.

9. In the event action is instituted to enforce or construe any term of this agreement, or to recover damages for breach, the prevailing party shall recover from the losing party statutory costs and reasonable attorney's fees incurred in such action, as determined by the court, including any appeal.

10. Any notice required or desired to be given by one party to the other shall be deemed complete when personally delivered, or on the third day after the same is deposited in the United States Mails in a sealed envelope, within the State of Oregon, postage prepaid, addressed to the other party at the address set forth below (or such other address as to which either party shall subsequently give notice):

Lettenmaier:

FOX N. BUSH, LLC.:

Terry Lettenmaier
PO Box 550
South Beach, OR 97366

Fox N. Bush, LLC
777 NE 2nd Street Suite F
Corvallis, OR 97333

11. Each party warrants to the other that such party is not a "foreign person" as defined in section 1445 of the Internal Revenue Code of 1954, as amended, and that such warranties shall be true at closing.

12. This Agreement, and the benefits and obligations hereof, shall inure to the benefit of, and bind, the parties and their heirs, successors and assigns, including any person acquiring any interest in the property described above, and if either party shall transfer any interest in the property, such party shall expressly disclose to the transferee, and make the transfer subject to, the rights and obligations of this Agreement.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Fox N. Bush, LLC

By: [Signature] [Signature]
 Authorized Representative
 Dated: 3 6 - 16 Terry Lettenmaier
 Dated: Jun 9, 2016

[Signature]
 Laurie Weitkamp
 Dated: 11/2/16



Nyhus Surveying, Inc.

Gary K. Nyhus, PLS

P.O. Box 206 / 740 E. Thissell Rd. • Tidewater, OR 97390 • 541-528-3234 • (Fax) 541-528-3234
nyhussurveying@peak.org

LEGAL DESCRIPTION PREPARED FOR TERRY LETTENMAIER

PROPOSED FOX 'N BUSH, LLC TO LETTENMAIER.

BEGINNING AT THE NORTHEAST CORNER OF GOVERNMENT LOT 2, SECTION 5, TOWNSHIP 12 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN, IN LINCOLN COUNTY, OREGON; THENCE SOUTH 89° 41' 45" WEST, 180.00 FEET ALONG THE NORTH LINE OF SAID SECTION 5; THENCE SOUTH 00° 00' 00" WEST, 240.00 FEET; THENCE SOUTH 63° 10' 16" WEST, 547.70 FEET; THENCE SOUTH 00° 00' 00" WEST, 170.39 FEET TO THE SOUTHERLY BOUNDARY OF THE LETTENMAIER AND WEITKAMP TRACT DESCRIBED IN LINCOLN COUNTY DEED DOCUMENT 2011-06639 AND THE TRUE POINT OF BEGINNING; THENCE SOUTH 89° 41' 51" WEST, 680.12 FEET, ALONG SAID SOUTHERLY BOUNDARY, TO THE SOUTHWEST CORNER OF THE AFORESAID LOT 2; THENCE SOUTH 00° 02' 38" EAST, 440 FEET, MORE OR LESS, ALONG THE NORTH-SOUTH CENTERLINE OF SECTION 5 TO THE NORTHERLY BOUNDARY OF SOUTHEAST 98TH STREET; THENCE EASTERLY, 340 FEET, MORE OR LESS, ALONG SAID NORTHERLY BOUNDARY TO THE MOST WESTERLY CORNER OF THE SIMMONS TRACT DESCRIBED IN LINCOLN COUNTY MICROFILM VOLUME 261, PAGE 0844; THENCE NORTHEASTERLY, 500 FEET, MORE OR LESS, ALONG THE CENTER OF A ONE LINK STREAM TO THE MOST NORTHERLY CORNER OF SAID SIMMONS TRACT; THENCE NORTHERLY, 180 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gary Keith Nyhus
OREGON
JULY 28, 1981
GARY KEITH NYHUS
2515



Nyhus Surveying, Inc.

Gary K. Nyhus, PLS

P.O. Box 206 / 740 E. Thissell Rd. • Tidewater, OR 97390 • 541-528-3234 • (Fax) 541-528-3234
nyhussurveying@peak.org

LEGAL DESCRIPTION PREPARED FOR TERRY LETTENMAIER

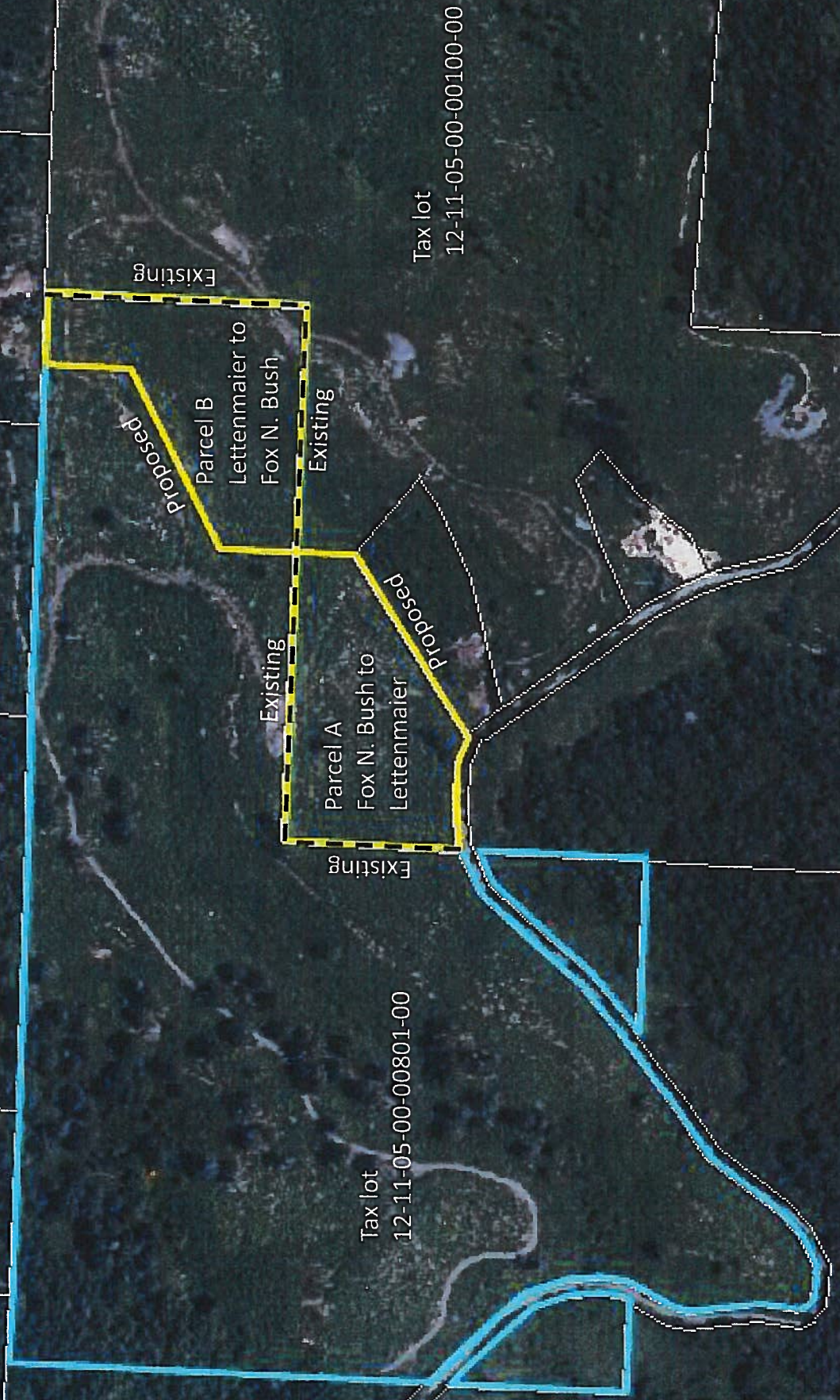
PROPOSED LETTENMAIER TO FOX 'N BUSH, LLC.

BEGINNING AT THE NORTHEAST CORNER OF GOVERNMENT LOT 2, SECTION 5, TOWNSHIP 12 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN, IN LINCOLN COUNTY, OREGON; THENCE SOUTH 89° 41' 45" WEST, 180.00 FEET ALONG THE NORTH LINE OF SAID SECTION 5; THENCE SOUTH 00° 00' 00" WEST, 240.00 FEET; THENCE SOUTH 63° 10' 16" WEST, 547.70 FEET; THENCE SOUTH 00° 00' 00" WEST, 170.39 FEET TO THE SOUTHERLY BOUNDARY OF THE LETTENMAIER AND WEITKAMP TRACT DESCRIBED IN LINCOLN COUNTY DEED DOCUMENT 2011-06639; THENCE NORTH 89° 41' 51" EAST, 670.00 FEET, ALONG SAID SOUTHERLY BOUNDARY, TO THE EAST LINE OF THE AFORESAID LOT 2; THENCE NORTH 00° 06' 32" WEST, 655.00 FEET TO THE POINT OF BEGINNING

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gary Keith Nyhus
OREGON
JULY 25, 1981
GARY KEITH NYHUS
2515

**Exhibit P – Boundary Line Adjustment / Exchange Agreement
Map depicting relationship of Parcels A & B**





Western Title & Escrow Company
255 SW Coast Highway, Suite 100
Newport, OR 97365
Office Phone: **(541) 265-2288**
Office Fax: **(541) 265-9570**

Minor, Bandonis & Haggerty, P.C.
Attention: Christopher Minor
236 West Olive Street
P O Box 510
Newport, OR 97365

Date Prepared: **December 29, 2015**

**PRELIMINARY TITLE REPORT
FOR ISSUING TITLE INSURANCE**

File Number: **111206**
Property Address:
None Listed

Western Title & Escrow Company is prepared to issue a title insurance policy, as of the effective date and in the form and amount shown on Schedule A, subject to the conditions, stipulations and exclusions from coverage appearing in the policy form and subject to the exceptions shown on Schedule B. This report is preliminary to the issuance of a policy of title insurance issued by **Fidelity National Title Insurance Company** and shall become null and void unless a policy is issued and the full premium paid.

This report is for the exclusive use of the person to whom it is addressed. Title insurance is conditioned on recordation of satisfactory instruments that establish the interests of the parties to be insured; until such recordation, the Company may cancel or revise this report for any reason.

Any questions concerning the Preliminary Title Report should be directed to **Charlie Cookson** at **541-322-9288** or email at titleofficersupport@westerntitle.com.

LINCOLN COUNTY RECORDING FEES Note: New fees below are effective January 1, 2014 for standard Deeds, Trust Deeds and other conveyance documents. **For all other documents please call (541) 574-1523 for exact fees.**

| | | | |
|------------|---------|----------------------|--------|
| First Page | \$53.00 | Each Additional Page | \$5.00 |
|------------|---------|----------------------|--------|

Street Address for Recording Package:

Western Title and Escrow
Attention: Recording
255 SW Coast Highway, Suite 100
Newport OR 97365

SCHEDULE A

1. The effective date of this preliminary title report is **5:00 P.M. on December 18, 2015**
2. The policies and endorsements to be insured and the related charges are:

| <u>Policy/Endorsement Description</u> | <u>Liability</u> | <u>Charge</u> |
|--|-------------------------|----------------------|
| 2006 ALTA Standard Owner's Policy | TBD | *\$TBD |
| *Above Charge Includes: | | |
| Owner Policy | \$TBD | |
| PROPOSED INSURED for Owner's Policy | | |
| Terrance M. Lettenmaier and Laurie A. Weitkamp | | |

| | |
|-------------------------------------|----------------|
| Local Government Lien Search | \$10.00 |
|-------------------------------------|----------------|

Agent portion of above Premiums is: \$TBD
Underwriter portion of above Premiums is: \$TBD

3. Title to the land described herein is vested in:

Fox N. Bush, LLC

4. The estate or interest in land is:

Fee Simple

5. The land referred to in this report is described as follows:

SEE ATTACHED EXHIBIT "A"

Exhibit "A"

Beginning at the Northeast corner of Government Lot 2, Section 5, Township 12 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon; thence South 89°41'45" West, 180.00 feet along the North line of said Section 5; thence South 00°00'00" West, 240.00 feet; thence South 63°10'16" West, 547.70 feet; thence South 00°00'00" West, 170.39 feet to the Southerly boundary of the Lettenmaier and Weitkamp tract described in Lincoln County Deed document 2011-06639 and the True Point of Beginning; thence South 89°41'51" West, 680.12 feet, along said Southerly boundary, to the Southwest corner of the aforesaid Lot 2; thence South 00°02'38" East, 440 feet, more or less, along the North-South centerline of Section 5 to the Northerly boundary of Southeast 98th Street; thence Easterly, 340 feet, more or less, along said Northerly boundary to the most Westerly corner of the Simmons tract described in Lincoln County Microfilm Volume 261, Page 0844; thence Northeasterly 500 feet, more or less, along the center of a one link stream to the most Northerly corner of said Simmons tract; thence Northerly, 180 feet, more or less, to the True Point of Beginning.

SCHEDULE B

Except for the items properly cleared through closing, the proposed policy or policies will not insure against loss or damage which may arise by reason of the following:

STANDARD EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public record; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records, reservations or exceptions in patents or in acts authorizing the issuance thereof, water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien, or right to lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

SPECIAL EXCEPTIONS:

6. Note: 2015-2016 TAXES ARE PAID IN FULL and are being shown for informational purposes only. This exception will not be shown on a title insurance policy.
Original Amount: \$3,808.66
Tax Lot No.: 12-11-05-00-00100
Account No.: R24599, Code 100
7. Personal property taxes, if any.
8. City liens, if any, of the City of Newport.
9. Subject property is either situated within the urban renewal boundaries or within the shared area of the City of Newport and is subject to the terms and provisions thereof.
10. As disclosed by the assessment and tax roll, the premises herein have been specially assessed as forest land. If the land becomes disqualified for this special assessment under the statute, an additional tax plus interest may be levied for the last five or lesser number of years in which the land was subject to this special land use assessment.
Account Nos.: R24599

Exhibit Q - Preliminary Title Reports
Fox N. Bush to Lettenmaier

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Preliminary Title Report

Order No.: **111206**

11. The rights of the public in and to that portion of the herein described property lying within the limits of roads and highways.
12. Rights of the public, riparian owners and of governmental bodies in that portion of the above described property lying below the high water mark of unnamed creek as to the use of the waters and the natural flow thereof.
13. Right of Way Agreement, including the terms and provisions thereof,
Dated: January 5, 1995
Recorded: February 22, 1995
Document No.: Book 295, page 955
Between: Boise Cascade Corporation
And: Simpson Timber Company
Amended by instrument,
Recorded: November 6, 2008
Document No.: 2008-12867, Lincoln County Records
(Covers Additional Land)
14. An easement created by instrument, including the terms and provisions thereof,
Recorded: April 19, 1955
Document No.: Book 170, page 301
In favor of: adjacent property
For: right to take water for domestic purposes from that certain stream
(Covers Additional Land)
15. Reservations, including the terms and provisions thereof, as disclosed by instrument,
Dated: August 28, 2006
Recorded: August 31, 2006
Document No.: 200613383
Reservation of: oil, gas and other minerals, as set forth therein
(Covers Additional Land)
16. An easement created by instrument, including the terms and provisions thereof,
Recorded: February 5, 2007
Document No.: 200701949, Microfilm Records
Re-Recorded: February 23, 2007
Document No.: 200702851, Microfilm Records
In favor of: Green Diamond Resource Company, a Washington corporation, its successors and assigns
For: non-exclusive easement over an existing logging road
(Contains an erroneous Legal Description)
(Covers Additional Land)
17. Mortgage, to secure an indebtedness in the amount shown below, and any other obligations secured thereby:
Amount: \$229,500.00
Dated: March 2, 2007
Recorded: March 9, 2007
Document No.: 200703573, Lincoln County Records
Mortgagor: Fox N. Bush, LLC
Mortgagee: John L. Fox
Loan No.: None Stated
(Covers Additional Land)

18. Existing leases and tenancies, if any.
19. No liability is assumed if a financing statement is filed in the office of the County Clerk or Secretary of State covering **timber** wherein the lands are described other than by metes and bounds, the rectangular survey system or by recorded lot and block.
20. No liability is assumed if a financing statement is filed in the office of the County Clerk or Secretary of State covering **fixtures** wherein the lands are described other than by metes and bounds, the rectangular survey system or by recorded lot and block.
21. The property described herein is part of a larger parcel and may be subject to the provisions of O.R.S. 92.010 through 92.190 regarding partitioning of the property. The forthcoming policy will not provide coverage against violation of these statutes.

Note: The Oregon Corporation Commission records show that as of January 17, 2007, Fox N. Bush, LLC is an Oregon Domestic Limited Liability Company qualified to do business in Oregon with Evashevski, Elliott, Cihak & Hediger, PC as its Registered Agent. Copies of the Articles of Incorporation or Bylaws showing the officers authorized to sign on behalf of the corporation should be furnished to us for examination.

Note: **If an ALTA Extended Lenders Policy is desired, Exceptions 1 through 5 may be modified or eliminated from the policy based upon receipt and review of the following:**

- A) A survey of the subject property. (Should a survey not be required for loan purposes, the title company could consider other alternatives, such as an inspection or review of a site plan. Please contact your Title representative for assistance.)
- B) Proof that there are no parties in possession or claiming to the right to be in possession other than the vestees herein and that there are no existing leases or tenancies.
- C) Proof that there are no statutory liens for labor or material, including liens for contributions due to the State of Oregon for unemployment compensation and for workman's compensation which have not gained or hereafter may gain priority over the lien of the insured mortgage, which liens do not now appear of record.

Note: We find no judgment liens or tax liens against **Terrance M. Lettenmaier and Laurie A. Weitkamp**.

Note: We find the following conveyance documents recorded during the last 24 months:
(Affecting a different portion of the Larger Parcel)

Bargain and Sale Deed

Recorded: June 9, 2015
Document No.: 2015-05586, Lincoln County Records
Grantor: Fox N. Bush, LLC, an Oregon Limited Liability Company
Grantee: Michael Moore and Barbara Moore, Husband and Wife
(Said Deed contains an erroneous Legal Description)

Bargain and Sale Deed

Recorded: June 9, 2015
Document No.: 2015-05587, Lincoln County Records
Grantor: Michael Moore and Barbara Moore, Husband and Wife
Grantee: Fox N. Bush, LLC, an Oregon Limited Liability Company

End of 24-month chain.

Note: **Legal Description Notice**

Based on the information provided and our records, we believe that the legal description in this report covers the parcel(s) of land requested in the application. If the application for title insurance was placed by reference to a street address or tax assessor's identification number only, please review the legal description carefully to verify that the correct property was searched. If the legal description is incorrect, the parties to the transaction must notify **Western Title & Escrow Company** to avoid errors and to insure that the correct parcel(s) of land will appear on any documents to be recorded in connection with this transaction and on the policy(ies) of title insurance.

Note: **Title Insurance Rate Disclosure Notice**

The title insurance charges for this order are disclosed in **Schedule A** of the Preliminary Title Report. In some circumstances, a reduced charge will apply. When it appears to us that a transaction qualifies for a reduced charge, it is our policy in Oregon to identify the reduced charge on Schedule A of the report. The reduction usually is computed as a percentage of the Company's basic rate. If a reduced charge appears on Schedule A, it is one of the following:

Reissue Rate: A discount of 25% of the basic rate applies when there has been title insurance on the property within the previous three years.

Builder-Developer Rate: A discount of 35% of the basic rate may apply when a party to the transaction is a builder or developer and the property is residential.

Contract Fulfillment Rate: A discount of up to 50% of the basic rate may apply to an owner's policy issued upon fulfillment of a previously insured land sale contract.

Leasehold to Owner's Conversion Rate: A previously insured lessee who exercises an option to purchase in the lease may obtain title insurance for the purchase with a 50% credit from the previous policy.

Post-Construction Permanent Loan Rate. A discount of up to 75% of the basic rate may apply to a loan policy for a permanent mortgage when it refinances a previously insured construction loan.

Exhibit Q - Preliminary Title Reports
Fox N. Bush to Lettenmaier

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Preliminary Title Report

Order No.: **111206**

Reorganization Rate: A discount of up to 65% of the basic rate may apply for title insurance to a business entity that is affiliated with a previously insured business entity.

Corporate Employee Transfer Rate: When a corporation transfers an employee from one area to another and the employee's corporation or one rendering employee transfer services acquires the employee's property with title insurance, a discount of up to 50% applies to the resale.

Simultaneous Issue Rate: A special rate may apply when two or more policies are issued simultaneously, such as a loan policy with an owner's policy or two loan policies.

IF YOU THINK A REDUCED RATE APPLIES TO YOUR TRANSACTION BUT IT DOES NOT APPEAR ON SCHEDULE A OF THE PRELIMINARY TITLE REPORT, PLEASE INFORM YOUR ESCROW OFFICER OR TITLE OFFICER by contacting them at the phone number, email address or mailing address shown on the report.

End of Report



Western Title & Escrow Company
255 SW Coast Highway, Suite 100
Newport, OR 97365
Office Phone: **(541) 265-2288**
Office Fax: **(541) 265-9570**

Minor, Bandonis & Haggerty, P.C.
Attention: Christopher Minor
236 West Olive Street
P O Box 510
Newport, OR 97365

Date Prepared: **January 20, 2016**

Revision #1
PRELIMINARY TITLE REPORT
FOR ISSUING TITLE INSURANCE

File Number: **111204**
Property Address:
None Listed

THE PRIOR REPORT IS REVISED FOR THE FOLLOWING:

Amend to Delete Exc. #14, 15, 17 - 22 & 24

Western Title & Escrow Company is prepared to issue a title insurance policy, as of the effective date and in the form and amount shown on Schedule A, subject to the conditions, stipulations and exclusions from coverage appearing in the policy form and subject to the exceptions shown on Schedule B. This report is preliminary to the issuance of a policy of title insurance issued by **Fidelity National Title Insurance Company** and shall become null and void unless a policy is issued and the full premium paid.

This report is for the exclusive use of the person to whom it is addressed. Title insurance is conditioned on recordation of satisfactory instruments that establish the interests of the parties to be insured; until such recordation, the Company may cancel or revise this report for any reason.

Any questions concerning the Preliminary Title Report should be directed to **Charlie Cookson** at **541-322-9288** or email at titleofficersupport@westerntitle.com.

LINCOLN COUNTY RECORDING FEES Note: New fees below are effective January 1, 2014 for standard Deeds, Trust Deeds and other conveyance documents. **For all other documents please call (541) 574-1523 for exact fees.**

| | | | |
|------------|---------|----------------------|--------|
| First Page | \$53.00 | Each Additional Page | \$5.00 |
|------------|---------|----------------------|--------|

Street Address for Recording Package:

Western Title and Escrow
Attention: Recording
255 SW Coast Highway, Suite 100
Newport OR 97365

1. The effective date of this preliminary title report is **5:00 P.M. on December 18, 2015**
2. The policies and endorsements to be insured and the related charges are:

| | |
|---|----------|
| Agent portion of above Premiums is: | \$176.00 |
| Underwriter portion of above Premiums is: | \$24.00 |

- Terrance M. Lettenmaier and Laurie A. Weitkamp, as tenants by the entirety**

- ## Fee Simple

- SEE ATTACHED EXHIBIT "A"**

Exhibit "A"

Beginning at the Northeast corner of Government Lot 2, Section 5, Township 12 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon; thence South $89^{\circ}41'45''$ West, 180.00 feet along the North line of said Section 5; thence South $00^{\circ}00'00''$ West, 240.00 feet; thence South $63^{\circ}10'16''$ West, 547.70 feet; thence South $00^{\circ}00'00''$ West, 170.39 feet to the Southerly boundary of the Lettenmaier and Weitkamp tract described in Lincoln County Deed document 2011-06639; thence North $89^{\circ}41'51''$ East, 670.00 feet, along said Southerly boundary, to the East line of the aforesaid Lot 2; thence North $00^{\circ}06'32''$ West, 655.00 feet to the Point of Beginning.

SCHEDULE B

Except for the items properly cleared through closing, the proposed policy or policies will not insure against loss or damage which may arise by reason of the following:

STANDARD EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public record; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records, reservations or exceptions in patents or in acts authorizing the issuance thereof, water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien, or right to lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

SPECIAL EXCEPTIONS:

6. Note: 2015-2016 TAXES ARE PAID IN FULL and are being shown for informational purposes only. This exception will not be shown on a title insurance policy.
Original Amount: \$269.17
Tax Lot No.: 12-11-05-00-00801
Account No.: R500182, Code 148
(Split Code, Covers Additional Land)

Note: 2015-2016 TAXES ARE PAID IN FULL and are being shown for informational purposes only. This exception will not be shown on a title insurance policy.
Original Amount: \$109.40
Tax Lot No.: 12-11-05-00-00801
Account No.: R522062, Code 100
(Split Code, Covers Additional Land)
7. City liens, if any of the City of Newport.
8. Subject property is either situated within the urban renewal boundaries or within the shared area of the City of Newport and is subject to the terms and provisions thereof.

Exhibit Q - Preliminary Title Reports
Lettenmaier to Fox N. Busi

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Preliminary Title Report **Revision #1**

Order No.: **111204**

9. Taxes, including current year, have been assessed with an exemption. If the exempt status is terminated under the statute prior to the date on which the assessment roll becomes the tax roll in the year in which said taxes were assessed, an additional tax may be levied.
Exemption: Forest
Account No.: R500182, R522062
10. Personal property taxes, if any.
11. The rights of the public in and to that portion of the herein described property lying within the limits of roads and highways.
12. Rights of the public, riparian owners and of governmental bodies in that portion of the above described property lying below the high water mark of unnamed creek as to the use of the waters and the natural flow thereof.
13. Right of Way Agreement, including the terms and provisions thereof,
Dated: January 5, 1995
Recorded: February 22, 1995
Document No.: Book 295, page 955, Microfilm Records
Between: Boise Cascade Corporation
And: Simpson Timber Company
Amended by instrument,
Recorded: November 6, 2008
Document No.: 2008-12867, Microfilm Records
(Covers Additional Land)
14. Deleted
15. Deleted
16. An easement created by instrument, including the terms and provisions thereof,
Recorded: April 19, 1955
Document No.: Book 170, page 301
In favor of: adjacent property
For: right to take water for domestic purposes from that certain
stream
(Covers Additional Land)
17. Deleted
18. Deleted
19. Deleted
20. Deleted
21. Deleted
22. Deleted

23. An easement created by instrument, including the terms and provisions thereof,
Dated: January 29, 2007
Recorded: February 5, 2007
Document No.: 200701949, Microfilm Records
Re-Recorded: February 23, 2007
Document No.: 200702851, Microfilm Records
In favor of: Green Diamond Resource Company, a Washington
corporation
For: non-exclusive easement over an existing logging road
(Covers Additional Land)
24. Deleted
25. Utility Easement Agreement, including the terms and provisions thereof,
Dated: September 11, 2013
Recorded: September 16, 2013
Document No.: 2013-09149, Lincoln County Records
Between: Terry Lettenmaier and Laurie Weitkamp
And: Steel String, Inc., an Oregon corporation
(Covers Additional Land)
26. Existing leases and tenancies, if any.
27. No liability is assumed if a financing statement is filed in the office of the County Clerk or Secretary of State covering **timber** wherein the lands are described other than by metes and bounds, the rectangular survey system or by recorded lot and block.
28. No liability is assumed if a financing statement is filed in the office of the County Clerk or Secretary of State covering **fixtures** wherein the lands are described other than by metes and bounds, the rectangular survey system or by recorded lot and block.
29. The description herein is part of a larger parcel and may be subject to the provisions of O.R.S. 92.010 through 92.190 regarding partitioning of the property. The forthcoming policy will not provide coverage against violation of these statutes.
30. Lack of a right of access to and from said land. The property herein described is a portion of a larger parcel and does not itself appear, of record, to have access to a public street or way.

Note: **If an ALTA Extended Lenders Policy is desired, Exceptions 1 through 5 may be modified or eliminated from the policy based upon receipt and review of the following:**

- A) A survey of the subject property. (Should a survey not be required for loan purposes, the title company could consider other alternatives, such as an inspection or review of a site plan. Please contact your Title representative for assistance.)
- B) Proof that there are no parties in possession or claiming to the right to be in possession other than the vestees herein and that there are no existing leases or tenancies.
- C) Proof that there are no statutory liens for labor or material, including liens for contributions due to the State of Oregon for unemployment compensation and for workman's compensation which have not gained or hereafter may gain priority over the lien of the insured mortgage, which liens do not now appear of record.

Note: There have been no vesting changes in the last 24 months.

Note: We find no judgment liens or tax liens against **Fox 'N Bush, LLC or Fox N. Bush, LLC.**

Note: The Oregon Corporation Commission records show that as of January 17, 2007, Fox N. Bush, LLC is an Oregon Domestic Limited Liability Company qualified to do business in Oregon with Evashevski, Elliott, Cihak & Hediger, PC as its Registered Agent. Copies of the Articles of Incorporation or Bylaws showing the officers authorized to sign on behalf of the corporation should be furnished to us for examination.

Note: **Legal Description Notice**

Based on the information provided and our records, we believe that the legal description in this report covers the parcel(s) of land requested in the application. If the application for title insurance was placed by reference to a street address or tax assessor's identification number only, please review the legal description carefully to verify that the correct property was searched. If the legal description is incorrect, the parties to the transaction must notify **Western Title & Escrow Company** to avoid errors and to insure that the correct parcel(s) of land will appear on any documents to be recorded in connection with this transaction and on the policy(ies) of title insurance.

Note: **Title Insurance Rate Disclosure Notice**

The title insurance charges for this order are disclosed in **Schedule A** of the Preliminary Title Report. In some circumstances, a reduced charge will apply. When it appears to us that a transaction qualifies for a reduced charge, it is our policy in Oregon to identify the reduced charge on Schedule A of the report. The reduction usually is computed as a percentage of the Company's basic rate. If a reduced charge appears on Schedule A, it is one of the following:

Reissue Rate: A discount of 25% of the basic rate applies when there has been title insurance on the property within the previous three years.

Exhibit Q - Preliminary Title Reports
Lettenmaier to Fox N. Bush

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Preliminary Title Report **Revision #1**

Order No.: **111204**

Builder-Developer Rate: A discount of 35% of the basic rate may apply when a party to the transaction is a builder or developer and the property is residential.

Contract Fulfillment Rate: A discount of up to 50% of the basic rate may apply to an owner's policy issued upon fulfillment of a previously insured land sale contract.

Leasehold to Owner's Conversion Rate: A previously insured lessee who exercises an option to purchase in the lease may obtain title insurance for the purchase with a 50% credit from the previous policy.

Post-Construction Permanent Loan Rate: A discount of up to 75% of the basic rate may apply to a loan policy for a permanent mortgage when it refinances a previously insured construction loan.

Reorganization Rate: A discount of up to 65% of the basic rate may apply for title insurance to a business entity that is affiliated with a previously insured business entity.

Corporate Employee Transfer Rate: When a corporation transfers an employee from one area to another and the employee's corporation or one rendering employee transfer services acquires the employee's property with title insurance, a discount of up to 50% applies to the resale.

Simultaneous Issue Rate: A special rate may apply when two or more policies are issued simultaneously, such as a loan policy with an owner's policy or two loan policies.

IF YOU THINK A REDUCED RATE APPLIES TO YOUR TRANSACTION BUT IT DOES NOT APPEAR ON SCHEDULE A OF THE PRELIMINARY TITLE REPORT, PLEASE INFORM YOUR ESCROW OFFICER OR TITLE OFFICER by contacting them at the phone number, email address or mailing address shown on the report.


End of Report

City of Newport

Community Development
Department

Memorandum

To: Newport Planning Commission

From: Derrick Tokos, Community Development Director 

Date: June 8, 2016

Re: Supplemental Analysis for Lettenmaier UGB Amendment

In response to comments provided by Patrick Wingard, North Coast Regional Representative, with the Department of Land Conservation and Development, the following analysis responds to requirements of OAR Chapter 660, Division 24 as they pertain to the subject request.

An application to adjust an Urban Growth Boundary (UGB), including an equal area exchange of land as proposed with this request, may rely on the land needs analysis that provided a basis for its current acknowledged Comprehensive Plan as long as the land being added can satisfy the residential land use need in a manner equivalent to the land being removed, and the City is prepared to apply the same Comprehensive Plan designation to the newly added real property (OAR 660-024-0070(3)). That is the case with this proposal. The residential need at issue is somewhat unique, in that the subject property is part of a large tract of land brought into the Newport UGB in July of 1987 to facilitate the construction of a destination resort. The Comprehensive Plan designation in the vicinity of the applicant's property is high-density residential; however, the resort concept includes some commercially designated property further to the west, adjacent to US 101. A resort has yet to be constructed, and the properties are restricted such that they cannot develop at urban densities in an incremental manner. In fact, the minimum scale of development is 150 separate rentable units, and eating establishments sufficient to accommodate 100 visitors with equivalent meeting space, the aggregate cost for which must be at least \$4 million (1987 dollars). Additionally, recreational facilities costing at least \$2 million (1987 dollars) must be constructed (ref: NMC 14.40.050(B)). The development would be served by a private sewage treatment system, and these minimum standards ensure that the scale of development will be sufficient to support the cost of installing such a system. The housing element of the Newport Comprehensive Plan, last amended in 2014, classifies the 575+/- acres of land in the destination resort separately from other residential lands, given the development limitations listed above.

Mr. Wingard points out that the subject proposal, involving an exchange of 6-acres of land, is subject to the location and priority provisions listed in OAR 660-024-0065 and OAR 660-024-0067. The locational provisions require the City to evaluate lands within 1 mile of the Newport UGB to see if the 6-acres the applicant proposes to add to the UGB is best suited for that purpose given the identified residential need and the State of Oregon's priorities which emphasize non-resource (exception) land being added as opposed to resource (i.e. farm and forest) lands. A map enclosed as Exhibit A shows the 1-mile study area. Given the unique nature of this destination resort, all non-contiguous properties north of the Newport Municipal Airport, which adjoins the northern boundary of the destination resort, are unsuitable because the existing development pattern, both structures and infrastructure, are too far removed from the balance of the destination resort for them to be reasonably developed as part of the resort (ref: OAR 660-024-0067(5)(a)(B)). Narrowing the scope of the analysis to properties south of the airport, adjacent or in close proximity to the destination resort, it is evident that the available exception lands are unsuitable because they consist of parcels 2-acres or less in size or are situated immediately adjacent to the airport and its associated airplane approach zones that discourage residential development. A map enclosed

as Exhibit B shows the exception areas with parcel boundaries. The R-1, R-1-A and RR-2 designated lands are highly parcelized and largely developed making them difficult to incorporate into a future destination resort. The administrative rules allow such lands to be considered unsuitable (OAR 660-024-0067(5)(a)(A)). The same goes for lands that cannot be reasonably developed as a result of existing development patterns such as the RR-5 zoned land next to the airport or the above referenced R-1, R-1-A, and RR-5 zoned lands OAR 660-024-0067(5)(a)(B)).

What is left are resource lands, such as the Timber-Conservation (T-C) zoned properties along the east side of the planned destination resort. The original concept drawings for the resort show a block of high-density residential development in the area where the 6-acre land exchange is going to occur (Exhibit C). While this UGB amendment proposal has been made to accommodate a single family dwelling home site outside of the city limits, the property is large enough at over 70 acres to accommodate urban levels of development as part of a future destination resort. As the applicant notes, the reconfigured boundary aligns the UGB more or less with the natural contours of the land. Property being added is situated west of a drainage and orients more to other lands inside the UGB that are also west of this natural feature. This makes it suitable for inclusion in the UGB.

It is relevant to note that this property is eligible for a home site because it was withdrawn from the city limits and is subject to county zoning regulations (ref: Ordinance No 2057, dated 8/19/13). The City utilizes an overlay zone to implement standards referenced earlier in this memo that prohibit residential development that does not meet the minimum investment threshold. That overlay is put in place at the time a property is annexed.






Attachments

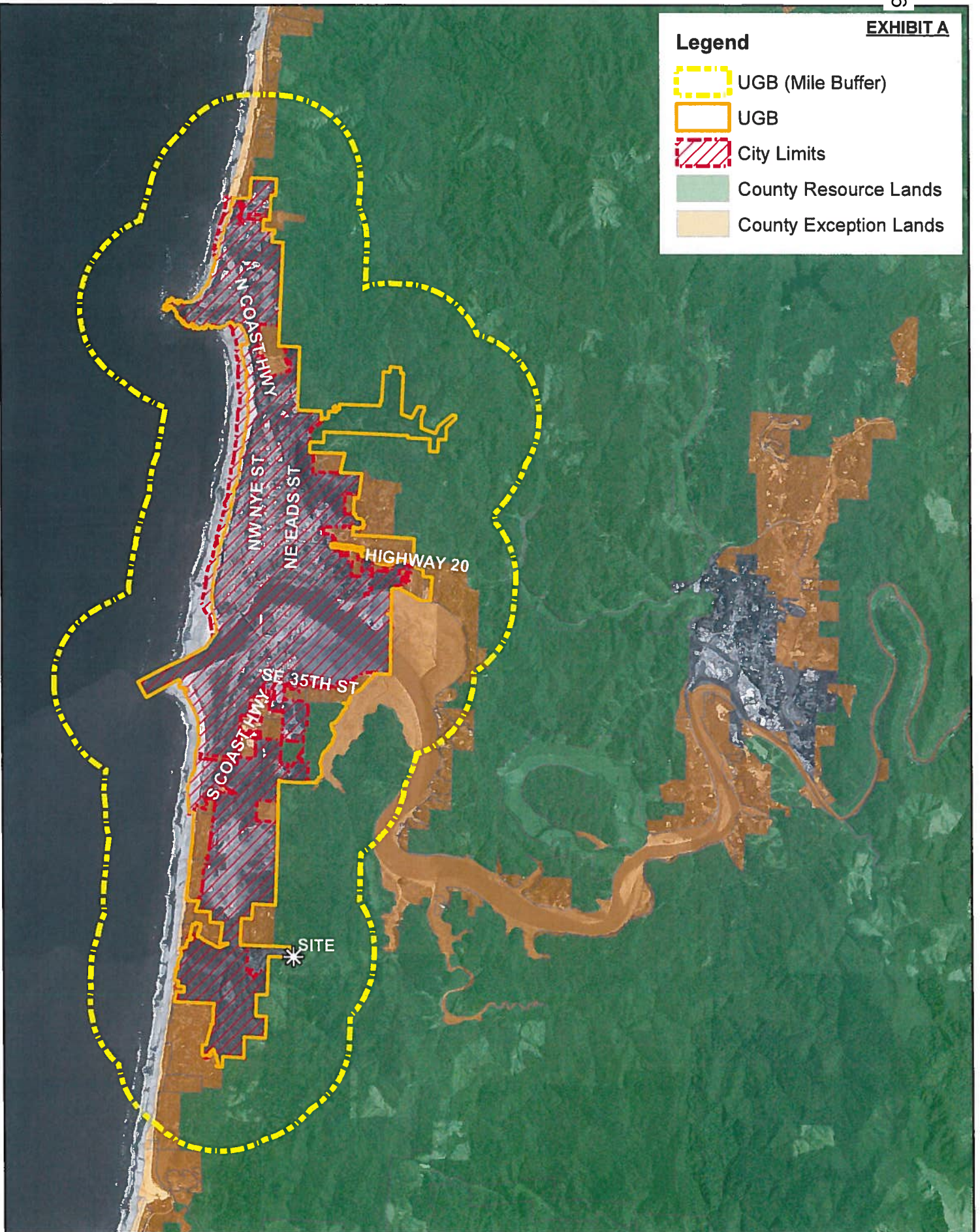
Exhibit A – UGB Study Area

Exhibit B – Enlarged Map of Study Area

Exhibit C – Wolf Tree Boundaries and Preliminary Site Plan

Legend

-  UGB (Mile Buffer)
-  UGB
-  City Limits
-  County Resource Lands
-  County Exception Lands



City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 541.874.9629
Fax: 541.874.9644

Urban Growth Boundary Study Area
Lettenmaier Amendment (File No. 1-UGB-16/1-CP-16)







Image Taken July 2013
4-inch, 4-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR

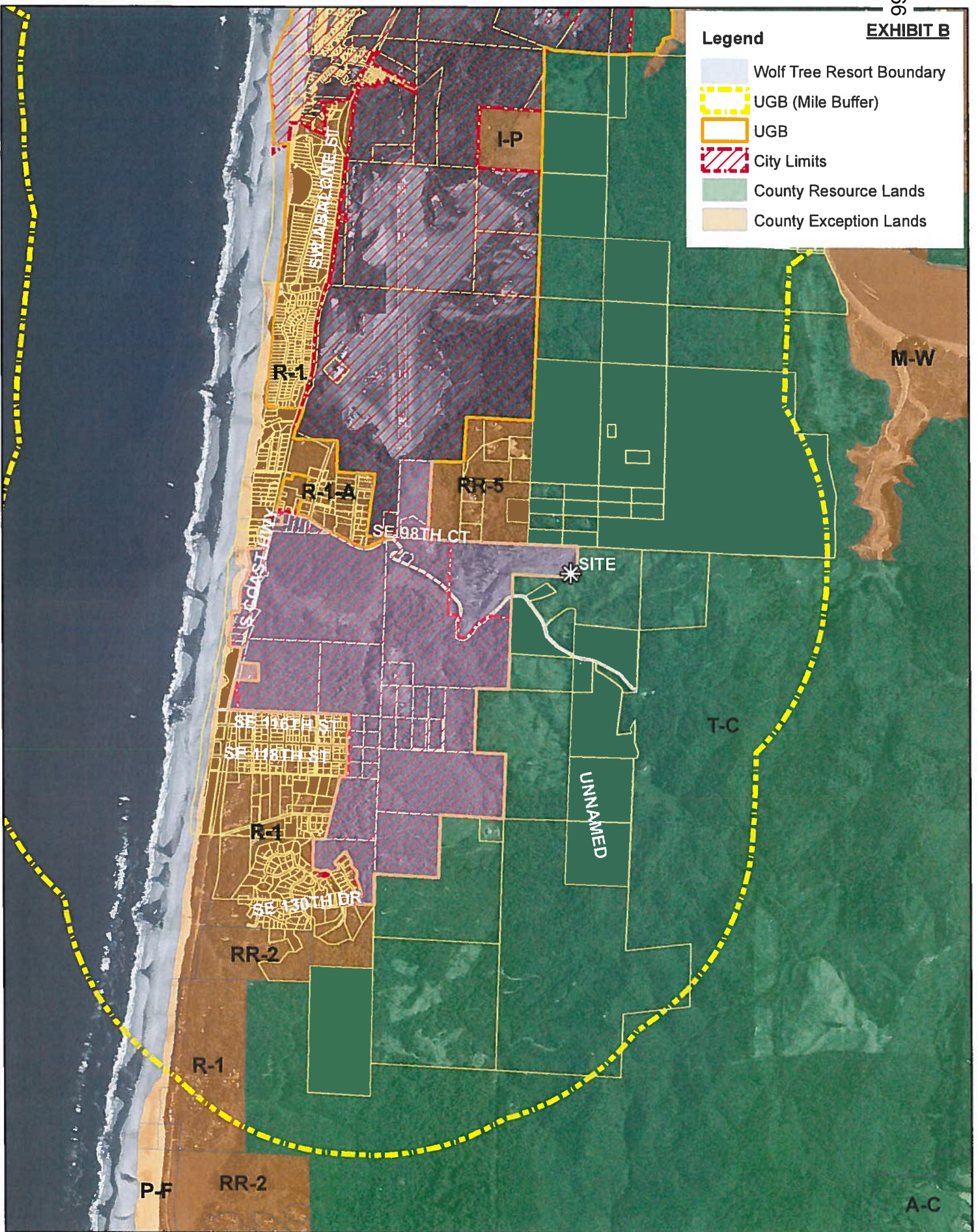
0 0.75 1.5 3 Miles



This map is for informational use only and has been prepared for use as a guide only. It is not a legal document. The City of Newport assumes no responsibility for any consequences or use of this information. It is recommended to verify all information with the City of Newport Community Development Department.

Legend

-  Wolf Tree Resort Boundary
-  UGB (Mile Buffer)
-  UGB
-  City Limits
-  County Resource Lands
-  County Exception Lands



City of Newport
Community Development Department
188 SW Coast Highway
Newport, OR 97335
Phone 1 541 874 8829
Fax 1 541 874 0644

Enlarged UGB Study Area with County Zoning
Lettenmaier Amendment (File No. 1-UGB-16/1-CP-16)

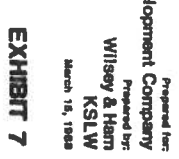
This map is for informational use only and has not been prepared for, nor is it suitable for, legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

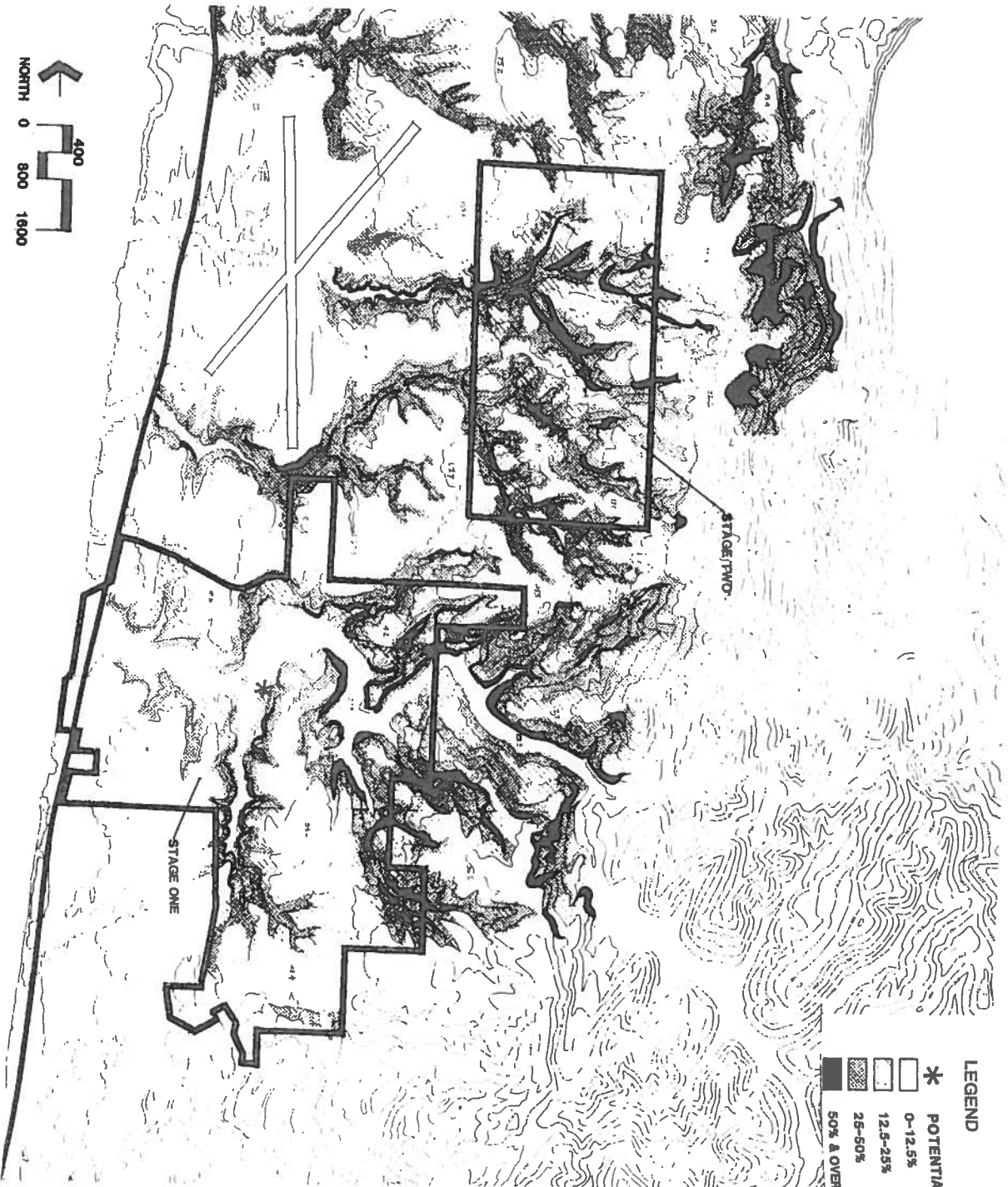
Image Taken July 2013
4-inch, 4-band Digital Orthophotos
David Smith & Associates, Inc. Portland, OR

0 0.25 0.5 1 Miles



Wolf Tree Resort
Conceptual Master Plan
Stage One





SLOPES / GENERAL TOPOGRAPHY MAI

EXHIBIT 3

Wanda Haney

From: Amanda Phipps <aphipps@newportnewstimes.com>
Sent: Monday, June 06, 2016 9:04 AM
To: Wanda Haney
Subject: RE: City of Newport Legal Notice - File 1-UGB-16/1-CP-16

Wanda,

I am sorry, it looks like the notice did not get in on Friday. This is my fault, I accidentally stored it in the wrong folder. I have given the notice over to our graphics department and we will make sure it runs on Wednesday. Again, I am very sorry about this.

Thank you,
Amanda

6/8/16

From: Wanda Haney [mailto:W.Haney@NewportOregon.gov]
Sent: Wednesday, May 18, 2016 8:45 AM
To: 'Legals'
Subject: City of Newport Legal Notice - File 1-UGB-16/1-CP-16

Attached is a legal notice of a Planning Commission public hearing for our file No. 1-UGB-16/1-CP-16 for publication once on **Friday, June 3, 2016**, please. Would you please confirm by return email that this notice was received & that it will publish on the date requested.

Thanks as always,

Wanda Haney
Executive Assistant
City of Newport
Community Development Department
169 SW Coast Hwy
Newport, OR 97365
541-574-0629
FAX: 541-574-0644
w.haney@newportoregon.gov

Wanda Haney

From: Amanda Phipps <aphipps@newportnewstimes.com>
Sent: Wednesday, May 18, 2016 8:52 AM
To: Wanda Haney
Subject: RE: City of Newport Legal Notice - File 1-UGB-16/1-CP-16

Wanda,
We have received your request and will publish accordingly.

Thank you,
Amanda

From: Wanda Haney [mailto:W.Haney@NewportOregon.gov]
Sent: Wednesday, May 18, 2016 8:45 AM
To: 'Legals'
Subject: City of Newport Legal Notice - File 1-UGB-16/1-CP-16

Attached is a legal notice of a Planning Commission public hearing for our file No. 1-UGB-16/1-CP-16 for publication once on **Friday, June 3, 2016**, please. Would you please confirm by return email that this notice was received & that it will publish on the date requested.

Thanks as always,

Wanda Haney
Executive Assistant
City of Newport
Community Development Department
169 SW Coast Hwy
Newport, OR 97365
541-574-0629
FAX: 541-574-0644
w.haney@newportoregon.gov

CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING

104

The City of Newport Planning Commission will hold a public hearing on Monday, June 13, 2016, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation to the Newport City Council on File No. 1-UGB-16 / 1-CP-16 as submitted by Terry Lettenmeir & Laurie Weitkamp and Fox N Bush, LLC., for a minor amendment to the configuration of the Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Tree Destination Resort Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by Lincoln County on both parcels. Provisions of the "Urbanization" element of the Newport Comprehensive Plan require findings regarding the following for the proposed UGB amendment: A.) Land Need: Establishment and change of urban growth boundaries shall be based on the following: 1.) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B.) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3.) Comparative environmental, energy, economic, and social consequences; and 4.) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C.) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Community Development Director (541) 574-0626, email address d.tokos@newportoregon.gov (mailing address above).

(For publication once on Friday, June 3, 2016)

CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING¹

105

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing on June 13, 2016, to review and make a recommendation to the Newport City Council on the following request. A public hearing before the City Council will be held at a later date.

File No.: 1-UGB-16 / 1-CP-16.

Applicant & Owners: Terry Lettenmeir & Laurie Weitkamp and Fox N. Bush, LLC.

Request: A request for a minor amendment to the Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Tree Destination Resort Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by the County on both parcels.

Applicable Criteria: Provisions of the "Urbanization" element of the Newport Comprehensive Plan require findings regarding the following for the proposed UGB amendment: A.) Land Need: Establishment and change of urban growth boundaries shall be based on the following: 1.) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2.) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B.) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3.) Comparative environmental, energy, economic, and social consequences; and 4.) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C.) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement.

Testimony: Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department (address under "Reports/Materials") must be received by 5:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Materials: Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department, City Hall, 169 S.W. Coast Hwy, Newport, Oregon, 97365. Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address.

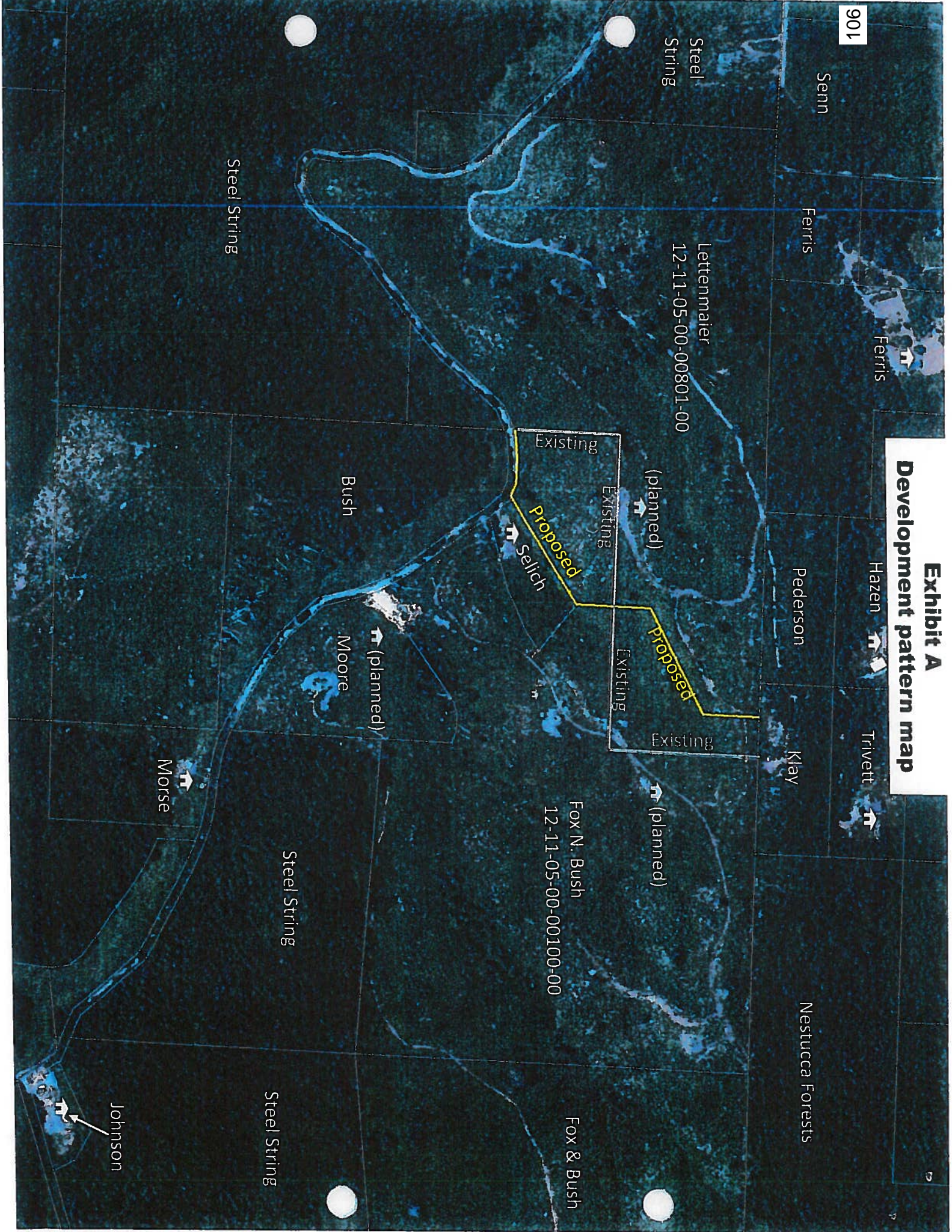
Contact: Derrick Tokos, Community Development Director (541) 574-0626 (address above in "Reports/Materials").

Time/Place of Hearing: Monday, June 13, 2016; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Materials").

MAILED: May 18, 2016.

PUBLISHED: Friday, June 3, 2016.

¹ This notice is being sent to affected property owners within 300 feet of the subject property (according to Lincoln County tax records), affected public utilities and agencies, and affected city departments.



Wanda Haney

From: Wanda Haney
Sent: Wednesday, May 18, 2016 8:26 AM
To: 'Wingard, Patrick'; 'ODOTR2PLANMGR@ODOT.STATE.OR.US'; '~
97365NewportOR@usps.gov'
Cc: Valerie Grigg-Devis (valerie.griggdevis@odot.state.or.us)
Attachments: File 1-UGB-16--1-CP-16_Notice.pdf

FYI - Attached is a public hearing notice regarding a minor amendment to the Newport Urban Growth Boundary.

Wanda Haney

Executive Assistant

City of Newport

Community Development Department

169 SW Coast Hwy

Newport, OR 97365

541-574-0629

FAX: 541-574-0644

w.haney@newportoregon.gov

Wanda Haney

From: Wanda Haney
Sent: Wednesday, May 18, 2016 8:08 AM
To: Derrick Tokos; Jim Protiva; Joseph Lease; Mark Miranda; Mike Murzynsky; Rob Murphy; Spencer Nebel; Ted Smith; Tim Gross; Victor Mettle
Subject: File 1-UGB-16/1-CP-16
Attachments: File 1-UGB-16--1-CP-16_Notice.pdf

Attached is a notice of a public hearing concerning a minor amendment to the configuration of the Newport Urban Growth Boundary in South Beach. The notice contains a brief explanation of the request, property description and map, and the date of the hearing. Please review this information to see if you would like to make any comments. We must receive comments at least 10 days prior to the hearing in order for them to be considered. **Should no response be received, a "no comment" will be assumed.**

Thanks,

Wanda Haney

Executive Assistant

City of Newport

Community Development Department

169 SW Coast Hwy

Newport, OR 97365

541-574-0629

FAX: 541-574-0644

w.haney@newportoregon.gov

in four years of varsity softball. She will move on to the collegiate level where she will join the Northwest Athletic Conference's 2016 softball champion Mount Hood.

On Sunday, June 5, Johnson along with fellow departing seniors Jessica Hyduchak, Kortney Kurmins-Hahn, and Kat Whitehead played in the

that nobody expected this year's Cubs team to be good as they were.

"Next year we're not supposed to be as good, but that is a challenge we look forward to," Schiewe said. "If they want to be good, they will be, but it's easy to be distracted if they don't have the desire."

the longest she had ever run during training was 16 miles.

"Once I hit mile 20, I was feeling good but definitely felt like I kind of know how I might need to adjust my training," she said.

"I was hoping to run 2:50, but I ran 2:58. It's still under three, which was like my

versity, said she was most likely going to end her marathon running career, going out on top and undefeated.

"Right now it's probably too soon to say, but I'm honestly like, I think that was a little too long for me. I think my next one will probably be a half — take it down a

broken.

While the Cubs ended their season on a down note, they would be proud of what they achieved. It was some kind of season.

Well done, girls!

Contact Managing Editor Wyatt Haupt Jr. at 541-265-8571, ext. 240 or whaupt@newportnewstimes.com

the spirit of the spirit and the spirit of the spirit to come out and ride. We've got, ride it, give it your best."

The weekly races are restricted to members of the Yaquina Wheels Bicycle Club. For more information or joining visit Bike Newport or yaquinawheels.org.

ADVERTISE 265-8571 In the news-times

PUBLIC NOTICES

LEGAL DEADLINES
WEDNESDAY
5:00pm Thursday
Prior
FRIDAY
EDITION:
5:00pm Tuesday
Prior

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF LINCOLN PROBATE DEPARTMENT
IN THE MATTER OF THE ESTATE OF DOROTHY M. SLAUGHTER
CASE NO. 16P030004
NOTICE TO INTERESTED PERSONS
Notice is hereby given that Cent Overall, President, the Northwest Baptist Foundation, has been appointed personal representative of the estate of Dorothy M. Slaughter, deceased. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative at 3200 NE 109th Ave., Vancouver, WA 98682-7749, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the court, the personal representative, or the attorneys for the estate. Dated and first published June 1, 2016, at 10:00 a.m.

PERSONAL REPRESENTATIVE:
Date first published: May 25, 2016, at 10:00 a.m.
By: Christopher R. Mazzetta, Attorney for Petitioner. M-25, J-1, 8 (05-08)

FORECLOSURE SALE
South Beach Mini Storage, 484 S Coast Hwy, South Beach, OR 97386, will hold a public sale on Saturday June 18th at 10:00 AM. Personal property of the following people will be for sale: B16 - J.D. Longman, C11 - April Gwynn, C22 - Candace Hayes, C27 - Pamela Baker, D14 - Kelly LaRue, F28 - Kelly Hauser, F49 - Nick Kamear, G53 - Christine Brazier, G12 - David Stringer, G15 - Liana Vilek, H01 - Patrick Baker, K16 - Scott Fassett, L06 - Rachel Gell, L15 - Kaycee N09 - Travis Estep, O03 - Richard Kocacore, O05 - Carlos Loera, T13 - Patrick Vinkens, T14 - Sandy Snyder, T27 - Lisa Myers. The persons mentioned above may contact us at the sale at (541) 687-4507. J-8, 10, 15, 17 (47-17)

NOTICE OF SHERIFF'S SALE #16-0651
On July 7, 2016, at the hour of 10:00 a.m., at the

PUBLIC SALE
Safe-Lock Storage located at 3839 SE Ash Street, South Beach, Oregon 97386, will hold a public sale on Saturday June 18th at 10:00 AM. Personal property of the following people will be for sale: B16 - J.D. Longman, C11 - April Gwynn, C22 - Candace Hayes, C27 - Pamela Baker, D14 - Kelly LaRue, F28 - Kelly Hauser, F49 - Nick Kamear, G53 - Christine Brazier, G12 - David Stringer, G15 - Liana Vilek, H01 - Patrick Baker, K16 - Scott Fassett, L06 - Rachel Gell, L15 - Kaycee N09 - Travis Estep, O03 - Richard Kocacore, O05 - Carlos Loera, T13 - Patrick Vinkens, T14 - Sandy Snyder, T27 - Lisa Myers. The persons mentioned above may contact us at the sale at (541) 687-4507. J-8, 10, 15, 17 (47-17)

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LINCOLN COUNTY PROBATE DEPARTMENT
IN THE MATTER OF THE ESTATE OF ROBERT LEROY STRADLEY, DECEASED.
CASE NO. 16P030386

NOTICE TO INTERESTED PERSONS
NOTICE IS GIVEN that the City of Newport, Oregon, has been appointed personal representative of the estate of Robert Cole Tozer, deceased. All persons having claims against the estate are required to present them, with vouchers attached, to the personal representative at 1000 1/2 S. Main Street, Suite 210, Newport, Oregon 97365, within four months after the date of first publication of this notice, or the claims may be barred. All persons whose rights may be affected by the proceedings may obtain additional information from the records of the court, the personal representative, or the attorney for the estate. Dated and first published June 3, 2016, at 10:00 a.m.

CITY OF NEWPORT NOTICE OF A PUBLIC HEARING
The City of Newport Planning Commission will hold a public hearing on Monday, June 13, 2016, at 7:00 p.m. in the City Hall Council Chambers to review and make a recommendation to the City Council on the 1-UGB-15 / 1-CP-16 as submitted by Terry Lettman and Luke Viedeman, for a minor amendment to the configuration of the

Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and 6 acres being removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Creek Watershed. Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by Lincoln County on both parcels. Provisions of the Comprehensive Element of the City of Newport Comprehensive Plan are being amended. The amendments are: A) Land Use: Establishment and change of urban growth boundaries shall be based on the following: 1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations con-

sistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3) Comprehensive environmental, energy, economic, and social consequences; and 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement. Testimony and evidence must be directed toward the request above or other criteria, including

criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may be continued by the Planning Commission, upon request of a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Written testimony sent to the Community Development (Planning) Department, City Hall, 160 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Newport Community Development Director (541) 574-0628, email address: d.tokos@newportoregon.gov (mailing address above). (J-8 (05-08))

IN THE CIRCUIT COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SHASTA PROBATE DEPARTMENT
IN THE MATTER OF THE ESTATE OF SHIRLEY M. HERRINGTON, DECEASED.
NO. 28651
NOTICE TO INTERESTED PERSONS
Notice is hereby given that Julie McElroy has filed a Petition for Probate for Letters of Special Administration. The date of the hearing is June 13, 2016, at 2:30 p.m. in Department 6 of the Shasta County Superior Court, located at 1500 Court Street, Redding, CA 96001. All persons whose rights may be affected by the proceedings in this estate may obtain additional information from the records of the court, the personal representative, or the attorney for the estate. Date first published: May 25, 2016, at 10:00 a.m. By: Christopher R. Mazzetta, Attorney for Petitioner. M-25, J-1, 8 (05-08)

FORM LB-1
A public meeting of the Newport Urban Growth Boundary and 1-UGB-15 / 1-CP-16 as submitted by Terry Lettman and Luke Viedeman, for a minor amendment to the configuration of the Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and 6 acres being removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Creek Watershed. Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by Lincoln County on both parcels. Provisions of the Comprehensive Element of the City of Newport Comprehensive Plan are being amended. The amendments are: A) Land Use: Establishment and change of urban growth boundaries shall be based on the following: 1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3) Comprehensive environmental, energy, economic, and social consequences; and 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may be continued by the Planning Commission, upon request of a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Written testimony sent to the Community Development (Planning) Department, City Hall, 160 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Newport Community Development Director (541) 574-0628, email address: d.tokos@newportoregon.gov (mailing address above). (J-8 (05-08))

NOTICE OF BUDGET HEARING
A public meeting of the Newport Urban Growth Boundary and 1-UGB-15 / 1-CP-16 as submitted by Terry Lettman and Luke Viedeman, for a minor amendment to the configuration of the Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and 6 acres being removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Creek Watershed. Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by Lincoln County on both parcels. Provisions of the Comprehensive Element of the City of Newport Comprehensive Plan are being amended. The amendments are: A) Land Use: Establishment and change of urban growth boundaries shall be based on the following: 1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3) Comprehensive environmental, energy, economic, and social consequences; and 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may be continued by the Planning Commission, upon request of a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Written testimony sent to the Community Development (Planning) Department, City Hall, 160 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Newport Community Development Director (541) 574-0628, email address: d.tokos@newportoregon.gov (mailing address above). (J-8 (05-08))

PORT OF NEWPORT NOTICE OF BUDGET HEARING
A public meeting of the Newport Urban Growth Boundary and 1-UGB-15 / 1-CP-16 as submitted by Terry Lettman and Luke Viedeman, for a minor amendment to the configuration of the Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and 6 acres being removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Creek Watershed. Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by Lincoln County on both parcels. Provisions of the Comprehensive Element of the City of Newport Comprehensive Plan are being amended. The amendments are: A) Land Use: Establishment and change of urban growth boundaries shall be based on the following: 1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3) Comprehensive environmental, energy, economic, and social consequences; and 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may be continued by the Planning Commission, upon request of a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Written testimony sent to the Community Development (Planning) Department, City Hall, 160 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Newport Community Development Director (541) 574-0628, email address: d.tokos@newportoregon.gov (mailing address above). (J-8 (05-08))

| TOTAL OF ALL FUNDS | | | |
|--------------------|-----------|-----------|-----------|
| Actual Budget | 2015-2016 | 2016-2017 | 2017-2018 |
| General Fund | 1,234,567 | 1,345,678 | 1,456,789 |
| Special Funds | 567,890 | 678,901 | 789,012 |
| Grants | 345,678 | 456,789 | 567,890 |
| Interfund | 123,456 | 234,567 | 345,678 |
| Debt Service | 78,901 | 89,012 | 90,123 |
| Capital Projects | 23,456 | 34,567 | 45,678 |
| Other | 12,345 | 23,456 | 34,567 |
| Total | 2,282,747 | 2,527,303 | 2,771,937 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Administration | 123,456 | 134,567 | 145,678 |
| Public Works | 234,567 | 245,678 | 256,789 |
| Police | 345,678 | 356,789 | 367,890 |
| Fire | 456,789 | 467,890 | 478,901 |
| Library | 56,789 | 67,890 | 78,901 |
| Other | 67,890 | 78,901 | 89,012 |
| Total | 1,285,159 | 1,353,615 | 1,417,171 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT (CONTINUED) | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Health Services | 78,901 | 89,012 | 90,123 |
| Senior Services | 89,012 | 90,123 | 91,234 |
| Community Development | 90,123 | 91,234 | 92,345 |
| Other | 91,234 | 92,345 | 93,456 |
| Total | 369,270 | 362,714 | 367,158 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT (CONTINUED) | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Recreation | 123,456 | 134,567 | 145,678 |
| Arts and Culture | 23,456 | 34,567 | 45,678 |
| Other | 34,567 | 45,678 | 56,789 |
| Total | 181,479 | 194,712 | 207,545 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT (CONTINUED) | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Other | 45,678 | 56,789 | 67,890 |
| Total | 45,678 | 56,789 | 67,890 |

IN THE CIRCUIT COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SHASTA PROBATE DEPARTMENT
IN THE MATTER OF THE ESTATE OF NORMA JUNE LEMASTER, DECEASED.
NO. 28652
NOTICE TO INTERESTED PERSONS
Notice is hereby given that Julie McElroy has filed a Petition for Probate for Letters of Special Administration. The date of the hearing is June 13, 2016, at 2:30 p.m. in Department 6 of the Shasta County Superior Court, located at 1500 Court Street, Redding, CA 96001. All persons whose rights may be affected by the proceedings in this estate may obtain additional information from the records of the court, the personal representative, or the attorney for the estate. Date first published: May 25, 2016, at 10:00 a.m. By: Christopher R. Mazzetta, Attorney for Petitioner. M-25, J-1, 8 (05-08)

FORM LB-1
A public meeting of the Newport Urban Growth Boundary and 1-UGB-15 / 1-CP-16 as submitted by Terry Lettman and Luke Viedeman, for a minor amendment to the configuration of the Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and 6 acres being removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Creek Watershed. Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by Lincoln County on both parcels. Provisions of the Comprehensive Element of the City of Newport Comprehensive Plan are being amended. The amendments are: A) Land Use: Establishment and change of urban growth boundaries shall be based on the following: 1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3) Comprehensive environmental, energy, economic, and social consequences; and 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may be continued by the Planning Commission, upon request of a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Written testimony sent to the Community Development (Planning) Department, City Hall, 160 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Newport Community Development Director (541) 574-0628, email address: d.tokos@newportoregon.gov (mailing address above). (J-8 (05-08))

PORT OF NEWPORT NOTICE OF BUDGET HEARING
A public meeting of the Newport Urban Growth Boundary and 1-UGB-15 / 1-CP-16 as submitted by Terry Lettman and Luke Viedeman, for a minor amendment to the configuration of the Newport Urban Growth Boundary, with an equal area adjustment of 6 acres being added and 6 acres being removed. The new boundary line will align with a property line adjustment that the two landowners are undertaking. Land area within the UGB is part of the Wolf Creek Watershed. Planned Development. Property outside the UGB is designated for forest uses. The change better accommodates homesites that have been approved by Lincoln County on both parcels. Provisions of the Comprehensive Element of the City of Newport Comprehensive Plan are being amended. The amendments are: A) Land Use: Establishment and change of urban growth boundaries shall be based on the following: 1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and 2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets, and roads, schools, parks and open space, or any combination of the need categories in this subsection. B) Boundary Location: The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: 1) Efficient accommodation of identified land needs; 2) Orderly and economic provision of public facilities and services; 3) Comprehensive environmental, energy, economic, and social consequences; and 4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. C) Compliance with applicable Statewide Planning Goals, unless an exception is taken to a particular goal requirement. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may be continued by the Planning Commission, upon request of a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Written testimony sent to the Community Development (Planning) Department, City Hall, 160 SW Coast Hwy, Newport, OR 97365, must be received by 5:00 p.m. the day of the hearing or must be personally presented during testimony at the public hearing. Pursuant to ORS 197.763 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. Material related to the proposed amendment may be reviewed or a copy purchased at the Newport Community Development (Planning) Department (address above). Please note that this is a legislative public hearing process and changes to the proposed amendment may be recommended and made through the public hearing process and those changes may also be inspected at no cost or copies may be purchased for reasonable cost at this address. Contact Derrick Tokos, Newport Community Development Director (541) 574-0628, email address: d.tokos@newportoregon.gov (mailing address above). (J-8 (05-08))

| TOTAL OF ALL FUNDS | | | |
|--------------------|-----------|-----------|-----------|
| Actual Budget | 2015-2016 | 2016-2017 | 2017-2018 |
| General Fund | 1,234,567 | 1,345,678 | 1,456,789 |
| Special Funds | 567,890 | 678,901 | 789,012 |
| Grants | 345,678 | 456,789 | 567,890 |
| Interfund | 123,456 | 234,567 | 345,678 |
| Debt Service | 78,901 | 89,012 | 90,123 |
| Capital Projects | 23,456 | 34,567 | 45,678 |
| Other | 12,345 | 23,456 | 34,567 |
| Total | 2,282,747 | 2,527,303 | 2,771,937 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Administration | 123,456 | 134,567 | 145,678 |
| Public Works | 234,567 | 245,678 | 256,789 |
| Police | 345,678 | 356,789 | 367,890 |
| Fire | 456,789 | 467,890 | 478,901 |
| Library | 56,789 | 67,890 | 78,901 |
| Other | 67,890 | 78,901 | 89,012 |
| Total | 1,285,159 | 1,353,615 | 1,417,171 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT (CONTINUED) | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Health Services | 78,901 | 89,012 | 90,123 |
| Senior Services | 89,012 | 90,123 | 91,234 |
| Community Development | 90,123 | 91,234 | 92,345 |
| Other | 91,234 | 92,345 | 93,456 |
| Total | 369,270 | 362,714 | 367,158 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT (CONTINUED) | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Recreation | 123,456 | 134,567 | 145,678 |
| Arts and Culture | 23,456 | 34,567 | 45,678 |
| Other | 34,567 | 45,678 | 56,789 |
| Total | 181,479 | 194,712 | 207,545 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT (CONTINUED) | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Other | 45,678 | 56,789 | 67,890 |
| Total | 45,678 | 56,789 | 67,890 |

| FINANCIAL SUMMARY - REQUIREMENTS BY DEPARTMENT (CONTINUED) | | | |
|--|---------------|-----------|-----------|
| Department | Actual Budget | 2015-2016 | 2016-2017 |
| Other | 45,678 | 56,789 | 67,890 |
| Total | 45,678 | 56,789 | 67,890 |

File 1-UGB-16/1-CP-16 Wed. June 8, 2016

TERRY LETTENMAIER &
LAURIE WEITKAMP
PO BOX 550
SOUTH BEACH OR 97366

FOX N BUSH LLC
JOHN FOX & JERALD L BUSH
777 NE 2ND ST STE F
NEWPORT OR 97365

JAMES A SENN &
JONG SOON
8450 SW MARINE VIEW ST
SOUTH BEACH OR 97366

WILLARD STUART & PETER K &
KATHERINE FERRIS
415 SE 98TH CT
SOUTH BEACH OR 97366

JOEL W PEDERSON
16141 SHELLCRACKER RD
JACKSONVILLE FL 32226

JONATHAN MARK & FREDRIKA KLAY
20143 47TH AVE NE
LAKE FOREST PARK WA 98155

NESTUCCA FORESTS LLC
ATTN: HANCOCK FOREST MGT
17700 SE MILL PLAIN BLVD STE 180
VANCOUVER WA 98683

STEEL STRING INC
2712 SE 20TH AVE
PORTLAND OR 97202

JACK M & JUDITH N SELICH
PO BOX 358
SOUTH BEACH OR 97366

MIKE R & BARBARA MOORE
9677 SE CEDAR ST
SOUTH BEACH OR 97366

JERALD L & CAROL A BUSH
24402 MAXFIELD CREEK RD
PHILOMATH OR 97370

LINCOLN COUNTY ASSESSOR
LINCOLN COUNTY COURTHOUSE
225 W OLIVE ST
NEWPORT OR 97365

LINCOLN COUNTY CLERK
LINCOLN COUNTY COURTHOUSE
225 W OLIVE ST
NEWPORT OR 97365

LINCOLN COUNTY COMMISSIONERS
LINCOLN COUNTY COURTHOUSE
225 W OLIVE ST
NEWPORT OR 97365

ODFW
HATFIELD MARINE SCIENCE CTR
2030 SE MARINE SCIENCE DR
NEWPORT OR 97365

LINCOLN COUNTY HUMAN SERVICES DEPT
ATTN: SANITARIAN
36 SW NYE ST
NEWPORT OR 97365

LINCOLN COUNTY HUMAN SERVICES DEPT
ATTN: ENVIRONMENTAL HEALTH
36 SW NYE ST
NEWPORT OR 97365

LINCOLN COUNTY PLANNING DEPT
210 SW 2ND ST
NEWPORT OR 97365

LINCOLN SURVEYOR
880 NE 7TH ST
NEWPORT OR 97365

WVCC
911 EMERGENCY DISPATCH
555 LIBERTY ST SE RM P-107
SALEM OR 97301-3513

LINCOLN COUNTY LIBRARY DISTRICT
PO BOX 2027
NEWPORT OR 97365

OREGON DEPT OF FORESTRY
763 NW FORESTRY RD
TOLEDO OR 97391

NEWPORT RURAL FIRE PROTECTION
DISTRICT
PO BOX 923
NEWPORT OR 97365

EMAIL
PATRICK WINGARD
DLCD

LINCOLN COUNTY SOLID WASTE DISTRICT
LINCOLN COUNTY COURTHOUSE
225 W OLIVE STREET
NEWPORT OR 97365

OREGON DEPT OF REVENUE
PROPERTY TAX DIVISION
PO BOX 14380
SALEM OR 97309-5075

OREGON DIVISION OF STATE LANDS
775 SUMMER ST NE
SALEM OR 97310-1337

EMAIL
ODOT

US ARMY CORP OF ENGINEERS
PO BOX 2946
PORTLAND OR 97309-5075

US DEPT OF THE INTERIOR
FISH & WILDLIFE SERVICE
2600 SE 98TH AVE #100
PORTLAND OR 97266

CENTRAL LINCOLN PUD
ATTN: DEBRA SMITH
PO BOX 1126
NEWPORT OR 97365

NW NATURAL
ATTN: ALAN LEE
1405 SW HWY 101
LINCOLN CITY OR 97367

NW NATURAL
ACCOUNT SERVICES
ATTN: ANNEXATION COORDINATOR
220 NW 2ND AVE
PORTLAND OR 97209

EMAIL
US POST OFFICE
NEWPORT

CENTURYLINK
ATTN: TRAVIS VAUGHN
740 STATE ST RM 407
SALEM OR 97301

CHARTER COMMUNICATIONS
ATTN: KEITH KAMINSKI
355 NE 1ST ST
NEWPORT OR 97365

WAYNE BELMONT
LINCOLN COUNTY COUNSEL
LINCOLN COUNTY COURTHOUSE
225 W OLIVE ST
NEWPORT OR 97365

LINCOLN COUNTY SOLID WASTE
CONSORTIUM
8098 NE AVERY ST
NEWPORT OR 97365

SEAL ROCK WATER DISTRICT
PO BOX 190
SEAL ROCK OR 97376

PIONEER TELEPHONE CO-OP
ATTN: GARY VICK
PO BOX 631
PHILOMATH OR 97370

CITY DEPARTMENTS

Derrick Tokos

From: Onno Husing <ohusing@co.lincoln.or.us>
Sent: Monday, April 25, 2016 12:50 PM
To: Derrick Tokos
Cc: Terry Lettenmaier; Dawn Pavitt; Chri Minor
Subject: Re: Concurrence on Minor UGB Amendment

Yes it is a minor amendment and our colleagues at DLCD concur too

Onno

On Sun, Apr 24, 2016 at 1:18 PM, Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

I concur that this proposal is a minor amendment to the Urban Growth Boundary.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365
ph: [541.574.0626](tel:541.574.0626) fax: [541.574.0644](tel:541.574.0644)
d.tokos@newportoregon.gov

From: Terry Lettenmaier [mailto:lett@peak.org]
Sent: Sunday, April 24, 2016 8:13 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>; Onno Husing <ohusing@co.lincoln.or.us>
Cc: 'Dawn Pavitt' <dawn@pavittlanduse.com>; Chri Minor <cminor@newportlaw.com>
Subject: Concurrence on Minor UGB Amendment

Derrick and Onno:

For our UGB amendment application to the city, we need a determination as to whether the requested change is a major or minor UGB amendment. We believe that this will be a minor UGB amendment, and I believe that in previous discussions both of you have agreed. Can the two of you provide email responses making statements to that effect, to include with our application to the city?

To refresh your memory, this UGB amendment will be necessary for our proposed 6 acre property exchange with Fox N. Bush. I have attached a map showing the location of this proposed property exchange. As we've previously discussed, the current UGB boundary is along the "existing" line and we will need to amend it to follow the "proposed" line in order to do this exchange.

Thank you,

Terry Lettenmaier

--

Onno Husing
Director, Lincoln County Dept of Planning & Development.
541-265-4192
541-265-6945 Fax

Derrick Tokos

From: Wingard, Patrick <patrick.wingard@state.or.us>
Sent: Thursday, June 02, 2016 5:31 PM
To: Derrick Tokos
Cc: Onno Husing
Subject: RE: Notice of Proposed Amendment

Hi Derrick,

I would like to talk to you about this proposal. OAR 660-024-0070 states that any swap such as this "must apply applicable location and priority provisions of OAR 660-024-0060 through 660-024-0067." No such analysis has been provided with this submittal. Essentially, this means that the city and county must adopt findings that the six acres to be brought into the UGB is better than any other six acres available under the criteria set forth in the rule. Newport would be the first city to do this analysis under the new rules that went into effect January 1, 2016 and we would like to work with you to craft appropriate findings. The one thing that could complicate matters: Does Newport have any rural residential "exception" lands adjacent to the city, or is it all forest land?

My apologies on the lateness of these comments. I looked at the application when it came in a few weeks ago, made some notes, and then got side-tracked. I meant to talk to you about this two weeks ago. I certainly don't want to delay, or complicate, things but we should touch base soon on how to address the concern I raise above.

Thanks,

Patrick

Patrick Wingard, AICP | North Coast Regional Representative
Ocean/Coastal Services Division
Oregon Dept. of Land Conservation and Development
North Coast Regional Solutions Center
4301 Third Street, Room 206 | Tillamook, OR 97141
Cell: (503) 812-5448
patrick.wingard@state.or.us | www.oregon.gov/LCD

From: Derrick Tokos [mailto:D.Tokos@NewportOregon.gov]
Sent: Tuesday, May 10, 2016 8:44 AM
To: DLCD Plan Amendments <planamendments@dlcd.state.or.us>
Cc: Wingard, Patrick <pwingard@dlcd.state.or.us>; Onno Husing <ohusing@co.lincoln.or.us>
Subject: Notice of Proposed Amendment

Enclosed is a notice of proposed amendment to the Newport Urban Growth Boundary. It is a minor amendment, involving the exchange of 6 acres so that the UGB aligns with a property line adjustment that the property owners are pursuing.

Let me know if you have any questions.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway

Newport, OR 97365
ph: 541.574.0626 fax: 541.574.0644
d.tokos@newportoregon.gov